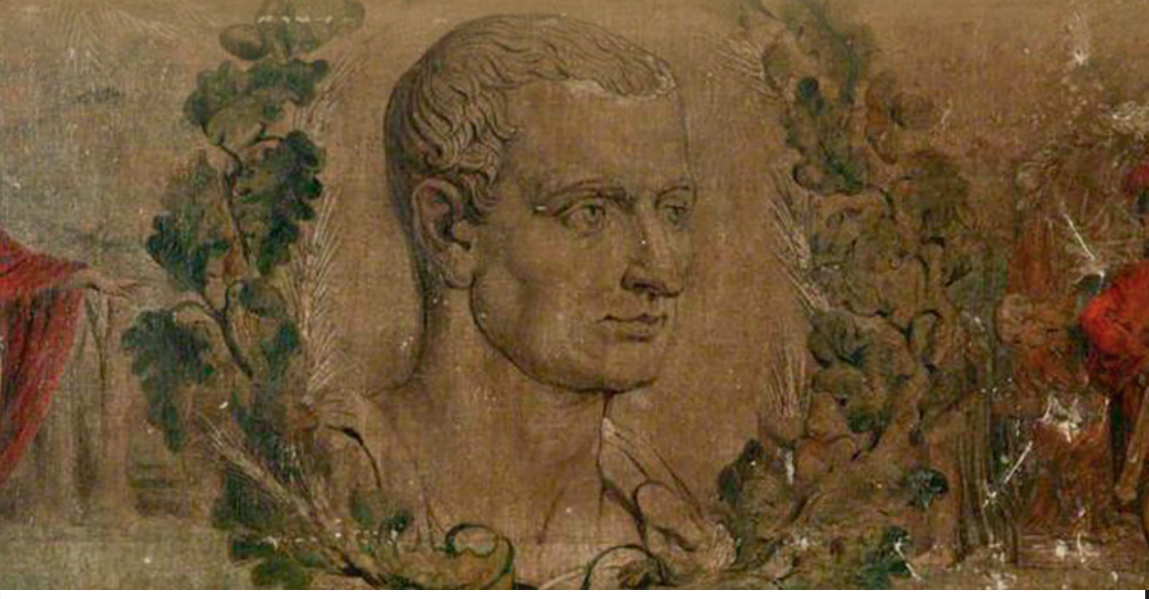

Power and Persuasion in Cicero's Philosophy

Edited by
Nathan Gilbert,
Margaret Graver and
Sean McConnell

POWER AND PERSUASION IN CICERO'S PHILOSOPHY

Extensively trained as a philosopher, Cicero was also a working politician with a keen awareness of the distance between pure intellectual endeavour and effective strategies of persuasion. This volume explores a series of interrelated problems in his works, from the use of emotion, self-correction, and even fiction in intellectual inquiry, to the motives of political agents and the morality of political arguments, to the means of justifying the use of force in international relations. It features close readings of works from all periods of Cicero's philosophical career, from the threshold of Rome's civil war to the year following the assassination of Julius Caesar. For a richer body of evidence, the volume also makes use of material from Cicero's personal letters and political speeches. *Power and Persuasion in Cicero's Philosophy* will be essential reading not only in Roman philosophy but also for the political and rhetorical culture of the Roman Republic.

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Note on Texts and Translations

Unless otherwise specified, contributors have used either the Oxford Classical Text or Teubner editions of Cicero and other Greek and Latin authors. For Cicero's *De re publica*, the numbering of Powell's 2006 Oxford edition has been included when it deviates from that of Ziegler's 1969 Teubner edition. For Cicero's letters, contributors have used the Cambridge editions of Shackleton Bailey and included his numbering along with the vulgate. The original Greek and Latin texts as a rule have been placed in the footnotes for ease of consultation, with English translations provided in the main text. Translations are the contributors' own unless otherwise indicated.

Abbreviations as a rule follow the conventions of the *Oxford Classical Dictionary* (4th ed.).

Finally, it should be noted that individual contributors have been allowed to follow the spelling conventions of either UK or US English, while for quotations UK conventions have been followed throughout.

Introduction

Nathan Gilbert, Margaret Graver, and Sean McConnell

'I am tormented, my dearest brother, I am tormented that there is no *res publica*, no judgments at law, and that this time of my life, which ought to be blossoming in senatorial authority, is either batted about by courtroom work or sustained by my studies at home.'[1] So wrote Cicero to his brother Quintus in 54 BCE, lamenting his diminished status. He who had once exercised the highest authority in the Roman state had now been sidelined by the power politics of Caesar and Pompey, excluded from influencing the major events of his time.[2] Henceforth he would have to devote his intellectual energies either to forensic oratory or to 'studies at home' – by which he means the work of composition, for he had recently completed his long treatise *De oratore*, and was already planning an even longer work. Reading and writing about philosophy and rhetorical theory was to sustain him emotionally throughout his life: It would be a 'respite from troubles', as he writes later in *De officiis* (2.2–6).

But in fact philosophy was much more than a respite for Cicero. In the retrospective on his philosophical career that he circulated after Caesar's assassination in 44, he speaks of those studies also as a form of political action (*Div.* 2.7):

> Once that had happened to my *res publica*, then, having been disbarred from my former duties, I began to renew these studies, so that chiefly I might alleviate my mind from these troubles and so that I might benefit my fellow citizens, in whatever way I could. For it was in books that I stated

[1] *QFr.* 3.5.4 = 25 SB: *angor, mi suavisime frater, angor nullam esse rem publicam, nulla iudicia, nostrumque hoc tempus aetatis, quod in illa auctoritate senatoria florere debebat, aut forensi labore iactari aut domesticis litteris sustentari.*

[2] For biographical and historical discussion of Cicero's political career, including his consulship in 63 BCE and his subsequent exile and return, see further Stockton (1971), Rawson (1975), Mitchell (1991), and Tempest (2011).

> my position; it was in books that I addressed the public assembly; it was philosophy, I thought, that in my case took the place of a governing role in the state.[3]

Writing on philosophical topics had become for him an alternative way to state a position (*sententiam*), as he might have done in the Senate, and a substitute for addressing the popular assembly. It was indeed the means by which he could govern, and in that, he thought, lay much of its value.

To be sure, Cicero's account of his political marginalization is somewhat exaggerated, for his public voice continued to matter, and some of his speeches had significant impact.[4] It is true, however, that the works referred to in *De divinatione* represent for him a means of engaging in public life and not merely a diversion from it. As Yelena Baraz has well observed, he 'comes to the conclusion that embedding philosophy in the Roman cultural fabric will serve the current needs of the state and the elite'.[5] Not every Roman might have agreed, but Cicero makes the point repeatedly and emphatically: Not only is philosophy a legitimate pursuit for statesmen, but it is also a way to provide substantive benefits to the wider community.[6] The subjects chosen for his first series of treatises make clear his intentions, for *De oratore* and *De re publica*, both composed before the civil war between Pompey and Caesar, together make a powerful case for a civic order maintained by the properly educated orator, the intelligent leader, and the well-designed constitution. The same is true of *De legibus,* also begun (though perhaps not finished) during the decade of the 50s.[7] The works written after Caesar emerged victorious in 46 cover a wider range of topics, as Cicero embarked on an ambitious project to bring Greek philosophy to Rome in a systematic fashion, but there, too, the aim is not merely to indulge in contemplative intellectual pursuits but

[3] *quod cum accidisset nostrae rei publicae, tum pristinis orbati muneribus haec studia renovare coepimus, ut et animus molestiis hac potissimum re levaretur et prodessemus civibus nostris, qua re cumque possemus. in libris enim sententiam dicebamus, contionabamur, philosophiam nobis pro rei publicae procuratione substitutam putabamus.*

[4] The speeches *Pro Marcello* and *Pro Ligario*, both performed before Caesar in 46 BCE, are a case in point: see further Volk's chapter in this volume.

[5] Baraz (2012: 2–3).

[6] The theme is particularly prominent in the prefaces to the philosophical works: e.g. *De or.* 1.1–4; *Rep.* 1.7–13, 3.4–7; *Leg.* 1.5–13; *Acad.* 1.2, 1.11–12; *Fin.* 1.2–3, 1.10–12; *Tusc.* 1.1–6, 2.1–9, 4.1–7; *Nat. D.* 1.6–9; *Div.* 2.1, 2.6–7. Cicero also explores this subject in certain letters and speeches. For critical discussion of Cicero's efforts to define a legitimate place for philosophy in Roman culture see further Hall (1996), Zetzel (2003), Connolly (2007: esp. 89–130), Gildenhard (2007: esp. 8–63), Baraz (2012: esp. 13–43), and McConnell (2014: esp. 33–61).

[7] The absence of *De legibus* from the list of philosophical and rhetorical works provided in *Div.* 2.1–4 is a point of interest; see further Zetzel's chapter in this volume. *De amicitia*, *De gloria*, and *De officiis* were composed after *De divinatione*.

to educate potential leaders in the next generation and to persuade them to take up the duties of citizenship.[8] Writing for his son Marcus in *De officiis*, he praises the philosophers who have been his models and teachers (*Off.* 1.156):

> For there is no subject relevant to the laws, the customs and the education of our state that they have failed to address: indeed, they seem to donate their scholarly retreat (*otium*) to our affairs (*negotium*). In this way, it is those who have dedicated themselves to learning and the study of philosophy who, more than any others, have donated their intelligence and good sense to the benefit of humanity.[9]

Like them, he means for his own scholarly retreat, his *otium,* to be an even greater public service than other educated men might provide.

But if philosophical writing is to provide civic benefits, it must be able to persuade others to adopt at least some philosophical principles or habits of mind. It must therefore succeed rhetorically as well as theoretically. The old way of thinking that pits philosophy and rhetoric against each other is not Cicero's: For him, from his earliest to his latest works, it is the combination of eloquence (*eloquentia*) with wisdom (*sapientia*) that most benefits those with whom we share social and political bonds. Speaking of his own oratorical abilities, he gives credit not to the technical training of his rhetoric teachers, but to his education in Academic philosophy.[10] And he has little time for philosophers who pay no attention to rhetoric (*Off.* 1.156):

> It is better to speak at length, provided one does so wisely, than to think, however penetratingly, without eloquence. For thought turns in on itself, but eloquence embraces those to whom we are joined by social life.[11] (trans. E. M. Atkins, slightly modified)

For him, philosophy and oratory must work hand in hand for philosophy to be effective in practical affairs. The two are not by any means the same science: Philosophy seeks to determine what is true and right in public

[8] Cf. e.g. *Rep.* 1.10–13; *Leg.* 1.5; *Acad.* 1.11; *Fin.* 1.11–12; *Nat. D.* 1.7–8; *Off.* 1.69–73, 1.153–60. For detailed discussion of the prefaces, see further in particular Baraz (2012). On Cicero's framing of the choice between the practical and the contemplative modes of life, see further Lévy (2012b).

[9] *nec enim locus ullus est praetermissus ab iis, qui ad leges, qui ad mores, qui ad disciplinam rei publicae pertineret, ut otium suum ad nostrum negotium contulisse videantur. ita illi ipsi doctrinae studiis et sapientiae dediti ad hominum utilitatem suam intelligentiam prudentiamque potissimum conferunt.*

[10] *Orator* 12: *et fateor me oratorem, si modo sim aut etiam quicumque sim, non ex rhetorum officinis, sed ex Academiae spatiis exstitisse*. Cicero is perhaps thinking of his Academic teacher Philo of Larissa, who taught both rhetoric and philosophy (*Tusc.* 2.9).

[11] *eloqui copiose, modo prudenter, melius est quam vel acutissime sine eloquentia cogitare, quod cogitatio in se ipsa vertitur, eloquentia complectitur eos quibuscum communitate iuncti sumus.*

life – or at least, what is plausible, for as an Academic skeptic, Cicero is cautious about every form of dogmatism – while rhetoric discovers the available means of persuading others. But both are necessary, for without the means of persuasion, the philosopher will be like Socrates or the Stoic Publius Rutilius Rufus, in the right and yet ineffectual.[12]

In the third book of *De oratore*, completed in 55 BCE, the character Crassus addresses long-standing concerns about the conflict between oratory and philosophy.[13] Through Crassus, Cicero offers an alternative account of the relationship in which philosophical and oratorical practice are in harmony. He praises the old system of education in which right action and right speech were taught by the same person, and he expresses admiration for orators who have also studied philosophy. He then criticizes Socrates for declining to pursue public affairs and oratory along with wisdom. Apparently thinking of Plato's presentation of Socrates in the *Gorgias,* he objects in particular to the division of philosophy and oratory into two separate systematic disciplines. This division, subsequently maintained by the Hellenistic schools in the period after Aristotle, has damaging practical implications, for the perfect orator requires training in philosophy, and philosophy is now detached from practical pursuits such as the law, where it has a natural home. Through this critical engagement with Socrates and the Greek philosophical tradition that follows him, Cicero promotes to his Roman readers a mode of doing philosophy that fits readily with the practical pressures and expectations of Roman political culture.[14] Circumstances permitting, he would choose for himself to be the philosophically informed orator of *De oratore*, a statesman directly active in public affairs.[15] Failing that, he will do his best to deploy the resources of the philosophical tradition to promote positive systemic change in the Roman body politic.

The ten essays presented in this volume study Cicero's philosophical project in detail, from different angles, as manifested in many forms

[12] Socrates is developed as a negative example by the speaker Antonius in *De or.* 1.231–3. For Publius Rutilius Rufus, see *De or.* 1.227–30.

[13] The most relevant passage is *De or.* 3.56–73. Leeman, Pinkster, and Wisse (1996: 223–65) provide a detailed commentary. For a range of critical discussion, including the question of how much Cicero is reproducing views developed by Philo of Larissa and other figures in the Academic tradition, see DiLorenzo (1978), Vickers (1988: 163–7), Reinhardt (2000), Wisse (2002a: 361–4; 2002b), and McConnell (2019: 355–8). See also Zetzel's chapter in this volume.

[14] It seems that Cicero saw the key Greek exponent of this kind of practical philosophy to be Demetrius of Phalerum (*Leg.* 2.66, 3.14; *Off.* 1.1).

[15] This ambition is apparent also in *Brutus* and *Orator*; see further Narducci (2002a, 2002b). On Cicero's self-interested motivations in defending and promoting oratory in *De oratore*, see in particular Fantham (2004: 49–77).

over his long and eventful career. Each takes up a particular issue within Cicero's writings, from *De oratore*, Cicero's earliest contribution to political philosophy, to *De officiis*, his last. The long, now fragmentary treatise *De re publica* is especially featured, for this was the work that established Cicero's reputation as a philosopher, and it retained a prominent place in his political thinking throughout the 40s, as he continued to dwell on its central themes and models and to adapt its central arguments in light of the changed political reality after the civil war.[16] The coordinated series of philosophical works composed in 45 and 44 also figures large in this volume, for the interaction of philosophy and rhetoric is essential to the understanding of those works. One of the political speeches, *Pro Marcello*, makes an appearance here as well, illustrating Cicero's readiness to draw upon philosophical concepts in making a highly specific political argument. Finally, Cicero's extensive correspondence with friends, colleagues, and family members comes into this volume at many points, grounding these studies in the particularities of the political moment at every stage of his career. The volume thus showcases the importance of a cross-generic approach to the study of Cicero's philosophy.[17] Not only do the letters and speeches provide insight into the particular pressures Cicero faced, but they themselves are often the forum for philosophical argument, persuasion, and reflection.

It is a central contention of this book that a proper assessment of Cicero's philosophy must stress not only its practical focus but also the importance of his rhetorical training. In keeping with the dominant trend in recent scholarship, the authors of these essays are strongly interested in how Cicero's philosophical endeavors are bound up with the social and political crises of the late Republic and with his deep concerns about the practicability of philosophical and political theory.[18] Our emphasis, however, is on the particular. Where others have sought to spell out Cicero's overarching political vision (see, for instance, Joy Connolly's argument in *The State of Speech*) or his attempt to provide a comprehensive philosophical rationale for republicanism (see especially Malcolm Schofield's *Cicero: Political Philosophy*), these essays concentrate rather on how he brings the

[16] Zarecki (2014) illustrates this with a particular focus on Cicero's model of the ideal statesman.

[17] The importance and benefits of making use of evidence across Cicero's written works has been increasingly emphasized; see Steel (2005) for a now classic example.

[18] See, for example, Connolly (2007), Gildenhard (2007), Nicgorski (2012, 2016), Baraz (2012), J. W. Atkins (2013), McConnell (2014), Zarecki (2014), Straumann (2016), and Schofield (2021). Gildenhard (2007: 51 n. 84) highlights the tendency in older scholarship to see Cicero's philosophical endeavors as largely separate from practical politics.

resources of philosophy to bear on specific issues or problems. The problems treated range from the abstract (What exactly is a republic, and what is the nature of the commonality among its citizens? What is the nature of persuasion, and what means of persuasion are legitimate for philosophers to use?) to the practical and concrete: What kind of person should lead the *res publica*, and is Caesar that kind of person? Under what circumstances can a just society go to war? But in every case, the contributors here proceed by close examination of specific portions of Cicero's output, in single works or through an analysis of material from different periods of his life. In a rhetorician of Cicero's calibre, a pointed remark, a suggestive *exemplum*, a repeated phrase, even a single word may carry a significance that opens up a whole dimension of his thought. These essays strive to identify and explicate those telling details.

The one methodological principle to which any Cicero scholar must adhere is that no single thesis, however persuasive, can apply to every twist and turn in the career of this extraordinarily versatile writer. To be sure, there is much to be said for the view of Alain Michel, that Cicero's works consistently exhibit the successful union of philosophy with the rhetorical modes of persuasion that he learned as a young man and employed and tested in Rome's law-courts, Senate, and public assemblies.[19] After all, Cicero himself states explicitly that some key components of his rhetorical training had their roots in the philosophical tradition. Notable examples are the general question or *thesis* and the practice of balanced *in utramque partem* argument, which he associates with the Academic and Peripatetic schools.[20] These techniques immediately link philosophy with rhetoric at the level of inquisitive and persuasive method.[21] But a consistent reliance on Michel's assumption will lead to some less than convincing interpretations of the evidence in particular cases. Rather than pressing Cicero into the mould of his rhetorical training, the essays in this volume follow his persuasive strategies wherever they go. While heart-stirring oratory may be effective in persuasion, a dispassionate syllogistic analysis may be designed for persuasion as well, and even more subtle techniques, like the choice of

[19] See especially Michel (1960). The work is perceptively criticized in Clarke (1961). For discussion of the nature of rhetorical education in Cicero's youth, see further Corbeill (2002). For details on the intellectual background to his rhetorical works, see Wisse (2002a).

[20] See e.g. *De or.* 3.80, 3.107; *Orat.* 46; *Acad.* 1.46; *Fin.* 5.10; *Nat. D.* 1.11–12; *Tusc.* 1.8, 2.9, 5.11; *Div.* 2.150. On the *thesis*, see further Clarke (1951) and Reinhardt (2000; 2003: 3–17). Many scholars associate the method particularly with the school of Philo of Larissa, the head of the skeptical New Academy (on which see further Brittain (2001: 255–342)).

[21] On which see further Gaines (2002). Gildenhard (2011) analyses Cicero's speeches with an eye to philosophy and persuasive technique.

characters in a dialogue or the selective matching of arguments to different contexts, may work to persuade readers at multiple levels. This highly flexible approach allows for subtle insights into the sophisticated rhetorical and persuasive strategies that Cicero employs in his philosophical writing.

It is a consistent assumption of these essays that Cicero maintains the intellectual stance of the skeptical Academic throughout his philosophical career.[22] Although he is clearly sympathetic to some elements of Stoic doctrine as well as to certain claims he associates with the Old Academy or the Peripatetic tradition, he presents himself as a free thinker rather than as firm adherent to any set of doctrines.[23] In writing about philosophy, his regular practice is to assess a range of arguments so as to determine what is plausible (*probabile*) or close to the truth (*veri simile*) and what therefore is most worthy of assent.[24] However, as circumstances change so too do his judgments, and this is reflected also in the figures and texts he appeals to and the ways in which he chooses to present that material for persuasive effect. At times, the view that Cicero finds most plausible is a Stoic view, and this is the case especially often in the ethical writings, where Stoic views on the emotions, on honor, and on justice have left their mark. Yet even there, the way in which he asserts these views is different from what

[22] This reading of Cicero's philosophical stance is now widely shared; see, for example, Woolf (2015). For the older debate about Cicero's philosophical allegiance and whether he was at one time an adherent of Antiochus and the dogmatic Old Academy, see Glucker (1988), Steinmetz (1989), Görler (1995), and Lévy (2017). The technical epistemological aspects of Cicero's Academic skepticism have been the subject of detailed study. There is excellent discussion in Brittain (2006, 2016), with comprehensive references to earlier literature; see also Thorsrud (2012), Woolf (2015: 10–33), and Wynne (2019: 35–46). There is some debate about whether Cicero is a mitigated skeptic in the fashion of Philo, prepared to give firm assent to certain propositions, or a radical skeptic in the fashion of Carneades and Clitomachus, continuing to express uncertainty about the ultimate truth throughout proceedings, or whether he flitted between the two positions at different times. A good starting point for exploring this debate is Brittain (2016).

[23] See e.g. *Acad.* 2.8–9; *Tusc.* 5.33; *Nat. D.* 1.10–11; *Div.* 2.150; *Off.* 1.6. He also encourages his Roman audience to undertake the same process of open-minded inquiry so as to reach their own reasoned judgments on the matters in question (which may of course accord with those put forward by Cicero). This is most obvious in *De officiis* when Cicero says to his son that he should freely make his own judgments about the content of his philosophical works (*Off.* 1.2), and it is a common gambit on the part of Cicero across his oeuvre. J. W. Atkins (2013: 14–46) demonstrates how Cicero creates this dynamic with his audience in *De re publica*; Brittain (2016) highlights it in *Academica and De finibus*; and Wynne (2019) shows it to be in play again in *De natura deorum* and *De divinatione*.

[24] The dialogue form in particular helps in this regard; see further Schofield (2008). In determining this, Cicero often employs the method of arguing against the position of an opponent in order to reach a conclusion that is *probabile* or *veri simile* (e.g. *De or.* 3.67; *Acad.* 1.16–17, 2.15; *Fin.* 2.2; *Nat. D.* 1.11; *Div.* 2.150; *Tusc.* 1.8, 5.11), in addition to balanced *in utramque partem* argument and other more positive modes of inquiry. This is an adversarial method that Cicero aligns very closely with the skeptical New Academy; he explicitly attributes it to the Academic skeptics Arcesilaus and Carneades (*De or.* 3.67; *Fin.* 2.2; *Nat D.* 1.11; *Tusc.* 5.11). On Cicero's Latin terminology and its links to the epistemological position of the New Academy, see in particular Glucker (1995, 2012).

we would find in a committed adherent of Stoic ethics; it is plausibilism, not dogmatism. *Power and Persuasion* includes one essay that is specifically on this issue (Roskam), and all our contributors are cognizant of its importance as it plays out in different contexts.

In accordance with the aims of the volume, the essays are grouped under two main headings: 'Part I: Techniques and Tactics of Ciceronian Philosophy', on how Cicero understands the nature and methods of philosophy and the relationship between philosophical content and literary genre; and 'Part II: Political Philosophy and Ethics', on how he brings philosophy to bear on theoretical and practical questions pertaining to the Roman *res publica*. Readers will find, however, that the ten essays are interrelated in ways that sometimes span these categories, either because they treat related issues or because they explore the same Ciceronian work from different angles.

Part I begins with a foundational essay by Raphael Woolf, 'Cicero on Rhetoric and Dialectic'. In a wide-ranging discussion, Woolf explores Cicero's position on good philosophical method and in particular on allowable methods of persuasion in a philosophical context. There is potential conflict between the aims of philosophy, which seeks to promote critical reflection on the part of the reader or hearer, and those of rhetoric, which seeks to persuade an audience and to secure emotional commitment. Woolf highlights how Cicero in practice reconciles the two disciplines and how both inform his entire philosophical project. The essay gives much attention to the ways in which Cicero is prepared to utilize specific emotive rhetorical techniques, such as the use of concrete examples rather than carefully reasoned arguments, when communicating philosophical ideas and seeking to instil ethical and political commitments in the minds of his audience.

The next chapter, 'Cicero's Platonic Dialogues' by James Zetzel, examines Cicero's ideas about the place of philosophy in Roman public life and in particular its relationship to statesmanship and oratory, with regard to the three philosophical dialogues of the 50s: *De oratore*, *De re publica*, and *De legibus*. Zetzel's specific concern is with the attitude of these works to Plato and to Hellenistic learning and with their construction of the interrelated histories of philosophy, rhetoric, and politics. He detects a substantial change of attitude in *De legibus*, where Cicero's philosophical approach to the problems besetting the Roman *res publica* perhaps reflect his concerns in the decade of the 40s, when he may have continued work on the dialogue and again left it unfinished.

Immediately following Zetzel, two chapters consider Cicero's Academic skepticism and distinctive modes of persuasive technique. Georgina

White's contribution, '*Mos dialogorum*: Scepticism and Fiction in Cicero's *Academica*', explores the relationship between philosophical content and literary genre. White works closely with the letters Cicero wrote to Atticus while composing the *Academica*, including his remark in the dedicatory epistle that the vivid and dramatically convincing conversation presented in the dialogue is, in fact, fictitious. She argues that this signal to question the credibility of the dialogue is related to the epistemological debate in the text and that literary features of the dialogue add force to Cicero's skeptical arguments against the claims of the Stoics and Antiochus. Geert Roskam follows with a paper on the temporal dimension of Cicero's Academic skepticism. His title, '*Nos in diem vivimus*: Cicero's Approach in the *Tusculan Disputations*', points out the key words in book 5 of the *Tusculan Disputation* by which Cicero emblematizes his philosophical approach: 'we live from day to day' (*Tusc.* 5.33). Here as elsewhere, the distinctively Ciceronian mode of doing philosophy is one that continuously reassesses its conclusions as circumstances change and new specifics demand attention, recognizing that an argument may work for some people but not others, or in some situations but not others. In brief, it is a basic principle of Cicero's stance that it never claims to give a final answer but is always sensitive to context-specific variables.

The final chapter in this section addresses Cicero's working methods and the creative and original ways he engages his Greek source material. In 'Cicero the Philosopher at Work: The Genesis and Execution of *De officiis* 3', Nathan Gilbert focuses on *De officiis* and Cicero's use of Stoic sources, in particular Panaetius and Posidonius, as well as on his critical engagement with Epicurean ethics, which amounts to a final word on his long-standing quarrel with the Garden. The latter topic is approached through analysis of Cicero's philosophical debates with some of his Roman Epicurean correspondents, especially Gaius Cassius Longinus, Caesar's assassin. The paper seeks to reorient and reassess old questions over Cicero's originality in *De officiis* and makes the case that here, as elsewhere, Cicero is engaging both with long-standing debates in Hellenistic ethics as well as with his contemporaries.

Following on these five studies of the nature and method of Ciceronian philosophy, the chapters in the second part grapple with issues relating more directly to the right exercise of power within the Roman sphere. Part II opens with two chapters on Cicero's major work of political philosophy, *De re publica*. In '*Iuris consensu* Revisited', Malcolm Schofield examines the famous claim in book 1 that a *res publica* is *res populi*, the business or the interest of the people, with a people being defined as 'a collection of a

great number of human beings, joined in partnership through agreement or unanimity of law or justice or right (*iuris consensu*) and through sharing in advantage (*utilitatis communione*)'. Schofield shows how the second phrase of the definition is essential to understanding Cicero's concerns about consent, the limits of power, and ultimately the preservation of the *res publica*. The next chapter, 'The Psychology of Honor in Cicero's *De re publica*' by Margaret Graver, examines Cicero's contention that honor can be a legitimate motive for political leaders and an important element in the education of citizens. Graver argues that the account given in *De re publica* of how honor motivates a person, both ordinarily and in the normative case, is fundamentally more similar to the views on honor put forward by the Hellenistic Stoics than it is to the tripartite model of psyche used by Plato in his *Republic*. But Cicero's own experience in politics has also given stimulus to his reflections; and conversely, the philosophical position on honor that he develops in his writing becomes part of his self-representation as a public figure.

We then move from the motivations of the individual statesman to the proper exercise of power in the collective. With his essay on the justice of war and imperial expansion, Jed Atkins considers how the state as a whole may be motivated in international relations, and in particular how *gloria* may serve as a motive for war. Atkins reconstructs Cicero's account of just war theory in *De re publica* and *De officiis* and explores the potential for coherence between his Stoic-influenced account of justice and his apparent commendation of wars undertaken for the sake of glory. The Ciceronian principle treated in Graver's paper thus finds an application at the very origins of the just war tradition.

The final two chapters shift attention to Cicero's thoughts on political action in light of the regime of Caesar. Katharina Volk's essay, 'Towards a Definition of *Sapientia*: Philosophy in Cicero's *Pro Marcello*', considers how that speech deploys the terms *sapientia*, *virtus*, and *gloria* – all core concepts of Greco-Roman moral philosophy – within a political argument. Through a close reading of the speech, Volk shows how Cicero's dynamic use of philosophical language indicates a congenial way for the elite to speak about sensitive topics while also appealing to Caesar's own values and intellectual acumen to motivate him toward a virtuous course of action, namely the restoration of the *res publica*. Following Volk is an essay by Sean McConnell on Cicero's *De senectute.* 'Old Men in Cicero's Political Philosophy' shows how this work takes up some key features of *De re publica,* adapting them to the different political circumstances of early 44 and adding new arguments in which old men are best equipped

to play the key roles within the state. This work of Cicero's own old age thus sets the stage for his return to politics after Caesar's assassination and his final efforts in the *Philippics* to use persuasive oratory on behalf of the *res publica.*

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PART I

Techniques and Tactics of Ciceronian Philosophy

CHAPTER 1

Cicero on Rhetoric and Dialectic

Raphael Woolf

The purpose of this chapter is to offer a sketch of the relation between rhetoric and dialectic in Cicero's thought and to identify a problem internal to his account and explore his resources for tackling it. I do not aspire to offer a comprehensive analysis of the role of either rhetoric or dialectic within Cicero's writings, let alone within those of other thinkers or practitioners who influenced him. My hope, rather, is that investigation of some of the ways in which he conceives of the relation may illuminate some distinctive aspects of his own philosophical approach.

1.1 Dialectical Reasoning and the Ciceronian Speaker

Cicero is a unique figure in ancient Rome: a leading statesman and orator at the centre of some of the most momentous events in the late republican period, and at the same time both a prolific philosophical author and the composer of a number of works on rhetoric. Now the question of how Cicero views the connection between philosophy and politics in general is a large and complex one that I shall not directly address here. But one issue of relevance that exercises him considerably is that of how philosophy should be most effectively communicated. Why does that matter to him? Because, I think, he regards the value of philosophy as above all practical. He believes that the insights given by philosophical theories can and should improve people's lives and make better societies.[1] But too often, in his view, philosophy is conveyed in an excessively abstruse and esoteric way, its own worst enemy when it comes to spreading its message to an audience not already on board.

Cicero sees his own particular skill set – that of an accomplished orator accustomed to persuading audiences of varying size and composition, and

[1] See e.g. *Tusc.* 4.84: 'let us seek from it [philosophy], if we want to be good and happy, all the help and support for a good and happy life' (*ab ea, si et boni et beati volumus esse, omnia adiumenta et auxilia petamus bene beateque vivendi*). See also *Off.* 1.155–6, which emphasises the social dimension.

of a man also steeped in philosophical learning – as ideally suiting him to convey the treasures of philosophy to a wider public. But being an orator and being a philosopher are so far just labels. What is it about certain ways of doing philosophy that Cicero felt militated against its communication? And how, if at all, can the skills of an orator help?[2] By way of approaching these questions, let me introduce another term – dialectic. One of the ways this term is used in Cicero is to pick out one of the three major branches of philosophy (or more precisely one of that branch's sub-divisions) distinguished in the Hellenistic era, and particularly important, as Cicero's texts reflect, for the Stoics.[3] These branches are commonly known as 'physics' (the study of the natural world), 'ethics' (the study of good and bad), and 'logic'. It is the latter branch that encompasses the field of dialectic.

The Greek *logikē* has considerably wider scope than the English 'logic'.[4] At *Fin.* 1.22 Cicero characterises *logikē* as that part of philosophy concerned with 'enquiry and discourse' (*quaerendi ac disserendi*) quite generally, and he calls it 'the method of discourse' (*rationem disserendi*) at *De fato* 1. Dialectic and rhetoric were each regarded by the Stoics as subdivisions of *logikē*: Cicero mentions Zeno the Stoic's famous description of rhetoric as being like an open palm, and dialectic a closed fist, referring respectively to a more expansive and a more compressed style of discourse (*Fin.* 2.17),[5] where the context (Torquatus's preference for the discussion of Epicureanism to proceed via continuous speeches) makes it clear that Cicero intends this to pick out a contrast between continuous discourse and back-and-forth question-and-answer.[6]

That in itself does not tell us very much about the significance of the difference between the two forms of discourse; neither does the report of Cicero's speaker Antonius at *De oratore* 2.157 of the Stoic account of dialectic as being 'the art of discoursing well and of distinguishing truths from falsehoods' (*artem … bene disserendi et vera ac falsa diiudicandi*). It is noteworthy, though, that dialectic's relation to truth is then itself made

[2] For a general treatment of the relation between philosophy and rhetoric in Cicero see Michel (1973).

[3] See e.g. *Fin.* 3.72, though the view put forth there, that dialectic is itself to be accorded the status of a virtue, is also claimed on behalf of the Old Academy by Cicero's spokesman Varro at *Acad.* 1.5.

[4] For discussion of the term in Cicero, see Barnes (1997).

[5] Cf. *Brut.* 309; *Orat.* 113.

[6] Despite his sly use at *Fin.* 2.17 of Zeno's distinction to supply the Epicurean Torquatus with some theoretical resources (reiterating at *Fin.* 2.18 a criticism of Epicurus for rejecting dialectic), Cicero's view of Stoic rhetoric is as a rule markedly unfavourable (see e.g. *Fin.* 4.7; *De or.* 3.66; *Parad. Stoic.* 2; *Brut.* 119–20), mainly because he regards it as bound by the dry contorted style he takes to be characteristic of their dialectic (more on which below); see Aubert (2008). On the unorthodoxy of Stoic rhetoric see Atherton (1988).

the subject of a distinction, albeit one that results in a downplaying of its usefulness for the orator, with its status as an art at the same time called into question by Antonius:[7] what its methods offer is not a way of 'discovering' but merely of 'testing' truth.[8]

Later I shall suggest that it is in the testing or examining both of theories and of persons that Cicero locates the main philosophical value of dialectic, and that the pairing of person and theory is of particular significance for him. In many passages Cicero does treat dialectic primarily as the study of formal argument,[9] and in this respect its closest counterpart in modern terms would indeed be logic. But more generally dialectic encompasses the study of correct methods of enquiry and exposition. Hence definition and classification, among other things, are treated by Cicero as falling within the scope of dialectic.[10]

Although he appears to think that the Stoics over-sell its powers,[11] it is far from being the case that Cicero finds dialectic objectionable per se. Indeed, in describing it as 'a rule for testing truths and falsehoods and assessing which conclusions do and do not follow from which premises' (*Brut.* 152),[12] he labels it 'the greatest of all arts' (*hanc artem omnium artium maximam*, *Brut.* 153),[13] bestowing the term 'art' here in his own name, by contrast with the reservations of Antonius in *De oratore*. He criticises philosophers – most notably Epicurus and his followers – who neglect it,[14] and praises non-philosophers who show some skill in it.[15] Moreover, he considers it a vital part of the orator's own toolkit.[16] Ability to organise

[7] The question of which forms of speech do or do not deserve the name 'art' was, as Cicero knew well, raised insistently by Plato, especially in the *Gorgias* and *Phaedrus*; see also note 54 below.

[8] *in hac arte*, *si modo est haec ars*, *nullum est praeceptum, quo modo verum inveniatur*, *sed tantum est*, *quo modo iudicetur* (*De or.* 2.157).

[9] See e.g. *Top.* 53–7; *Fin.* 4.55; *Acad.* 1.32, 2.143; *Div.* 2.11; *Fat.* 12; *De or.* 2.111.

[10] See e.g. *Tusc.* 4.9; *Orat.* 116–17. On Ciceronian dialectical terminology (with particular reference to the letters) see Aubert-Baillot (2019).

[11] Note the technical critique of the epistemic ambitions of Stoic logic mounted at *Acad.* 2.91–8 (discussed in Barnes, 1997), though this of course falls well short of a denial that reasoned argument is a useful tool of discourse; the limits of such argument in effecting psychological change is the rather different form of Ciceronian critique that I shall focus on.

[12] *regulam qua vera et falsa iudicarentur et quae quibus propositis essent quaeque non essent consequentia.* See also *Top.* 6; *Part. or.* 78; *Acad.* 1.19.

[13] One might, as Phillip Horky suggests to me, construe *maximam* in context as something like 'maximally encompassing'.

[14] See e.g. *Acad.* 2.97; *Fin.* 1.22; *Tusc.* 2.7–8; cf. *Nat. D.* 1.89. Such neglect may have been a reflection of Epicurean ontological commitments; see Sedley (2019).

[15] See e.g. *Acad.* 1.8; *Brut.* 152–3. He also unexpectedly praises (albeit at the expense of the Stoics) Epicurus's syllogism on the infinity of the universe at *Div.* 2.103–4.

[16] See e.g. *Brut.* 309; *Orat.* 44, 113–15, 137; cf. *De or.* 1.128.

one's thoughts and to reason well are evidently important weapons for one whose stock-in-trade is persuasion and conviction.[17]

Important, but limited. What a command of the techniques of formal argument does not necessarily carry with it, in Cicero's view, is the capacity to engage and affect an audience's emotions. Repeated stress is placed in Cicero's theoretical writings on this ability as an essential, and frequently the defining, element of a good orator's repertoire,[18] and in one work on rhetoric he contrasts oratory and philosophy explicitly in this regard: philosophers 'converse with the learned, whose minds they prefer to soothe rather than inflame. It is therefore not hard to distinguish this form of eloquence [philosophy] from that which we are treating in this work [oratory]. For the discourse of philosophers is gentle and reclusive … there is no anger in it, no malice, no ferocity, no pathos, no cunning' (*Orat.* 63–4).[19]

Now Cicero does not regard it as a fault of philosophy that it is not, as he sees it, particularly well suited on its own to stirring the emotions. Philosophy has its strengths, among them the setting forth of rational argument. But people are not always receptive to rational argument, and in some philosophers' hands – Cicero is particularly critical of the Stoics here – a dry, compressed style of argumentation can be positively off-putting for audiences who might otherwise be receptive to philosophical ideas.[20] So if one wants to get such ideas across in the most effective way one will need to combine rhetorical skill with a mastery of philosophical ideas and arguments.[21] No prizes for guessing who might exemplify such a paragon of communication (cf. *Brut.* 161–2),[22] though Cicero also praises a number of others, both schools and individuals (principally Peripatetics and Academics), for the ability to combine fluency of style with philosophical acumen.[23]

1.2 The Role of Example

So far, then, we have a contrast between dialectic, as the part of philosophy concerned with good method in general and formal argument

[17] On Cicero's use of philosophical tools and techniques in his oratory see Gildenhard (2011).

[18] *De or.* 1.53, 1.219, 2.35, 2.115, 2.178, 2.185–6, 2.310–1; *Brut.* 185, 199, 276, 279, 322; *Orat.* 122; *Opt. gen.* 3; *Part. or.* 22, 53, 58, 79.

[19] *loquuntur cum doctis quorum sedare animos malunt quam incitare … ergo ab hoc genere non difficile est hanc eloquentiam de qua nunc agitur secernere. mollis est enim oratio philosophorum et umbratilis … nihil iratum habet, nihil invidum, nihil atrox, nihil miserabile, nihil astutum.*

[20] See e.g. *De or.* 1.56, 2.159; *Fin.* 4.7; *Brut.* 119–20.

[21] See e.g. *De or.* 1.68–9, 3.142–3; *Fat.* 3.

[22] On Cicero's self-positioning at the intersection of rhetoric and philosophy see further Grilli (2002).

[23] See e.g. *Div.* 1.24; *Parad. Stoic.* 1–2; cf. *Fin.* 3.41; *Nat. D.* 2.1. On Cicero's characterisation of Academic eloquence see further A. G. Long (2015).

in particular, and rhetoric, as concerned especially with the achieving of emotional effect. But we also need to look at another important contrast at work in Cicero, that between argument on the one hand and illustration or example on the other. Argument and example are treated as complementary approaches for the orator in several places in the rhetorical works,[24] while at *Tusc*. 3.56 Cicero speaks of 'transferring the discourse from the subtleties of argument to the giving of examples' (*a disputandi subtilitate orationem ad exempla traducimus*), with Socrates and Diogenes the Cynic cited as exemplifying the thesis that poverty is endurable.

A further case, suggestive of a certain communicative efficacy of example over argument, is to be found at *Tusc*. 3.22, where Cicero refers to the Stoics' 'rather contorted' (*contortius*) deductive argument he has just set out that the person liable to feel pity would also be liable to feel envy. At *Tusc.* 3.21 this conclusion was also illustrated with the example of the Peripatetic philosopher Theophrastus lamenting the death of his friend Callisthenes at the hands of Alexander the Great. In the example, as perhaps not in the chain of deductions itself, we can see real force in the idea that pity for one person may lead to resentment of another (Alexander in this case) particularly when the latter is responsible for the misfortune of the former.

Cicero's short work *Paradoxa Stoicorum* similarly complains about the 'tiny little dialectical pinpricks' (*minutis interrogatiunculis quasi punctis*, *Parad. Stoic.* 2) characteristic of much Stoic exposition, and the work represents his own attempt to show that their doctrines can be made plausible to a wider audience by using a more rhetorical style (*Parad. Stoic.* 5).[25] It turns out that an important feature of the style is its use of examples:[26] at *Paradoxa Stoicorum* 10 Cicero remarks that doctrines that may seem repellent when argued too phlegmatically 'need illustrating with the life and deeds of eminent men' (*vita atque factis illustranda sunt summorum virorum*), rather than being argued out in excessively subtle verbal form; and he goes on to offer a catalogue of valorous deeds of individual Romans to demonstrate the Stoic thesis that virtue is the only good, noting that Rome 'overflows with examples from home' (*domesticis exemplis abundamus*, *Parad. Stoic.* 12).

In the political realm, Rome itself features notably in the role of example, as set against abstract theory, in Cicero's *De re publica*. At *Rep.* 2.66

[24] See e.g. *De or.* 1.88–90; *Brut.* 145; *Orat.* 137–8; *Part. or.* 116.

[25] On the relation between rhetoric and philosophy in this work, see Englert (1990).

[26] That the early Stoa foreswore the use of individual exemplars in their ethics (contrast the impersonal Stoic sage) is persuasively argued in Sedley (1999).

Cicero's speaker Scipio proffers the Roman constitution as a concrete manifestation of the good society and justifies this in terms of its being a way 'to see clearly in reality the kind of thing that reason and speech were merely describing' (*ut … reapse cerneretur quale esset id, quod ratio oratioque describeret*), with another participant Laelius having earlier, in addition, pointed out the dangers, in relation to Plato's *Republic*, of constructing a state entirely from the imagination 'that bears no relation to human life and customs' (*a vita hominum abhorrentem et moribus*, *Rep.* 2.21). Example thus operates both as a check on the wilder reaches of theoretical abstraction and as a way of transmitting more powerfully than formal argument the viability of a particular idea.

A further instance of example-giving, from *De finibus*, is perhaps the most significant for present purposes, since it involves Cicero asking his readers to consider what kind of person and what kind of life the abstract principles of an ethical theory – in this case Epicureanism – would deliver in practice. This technique, I suggest, is philosophically fruitful and at the same time offers a way of understanding how rhetoric and dialectic interact in Cicero's work.

At *Fin.* 2.63–5, as a means of testing the Epicurean thesis that the good life is nothing other than the pleasant life, Cicero offers two examples: firstly, that of Lucius Thorius, a man who led a life full of pleasures, with good health and good friends; and secondly, the Roman general Marcus Regulus, who is said to have died heroically under torture at the hands of the Carthaginians, having refused to advocate a prisoner exchange that would have saved his life. Cicero claims on the basis of this comparison that Regulus must be regarded as the happier of the two and that Torquatus, Cicero's Epicurean spokesman, 'must either repudiate these cases or give up the championing of pleasure' (*aut haec tibi … sunt vituperanda aut patrocinium voluptatis repudiandum*, *Fin.* 2.67);[27] and he asks how the cause of pleasure can have any champion when it 'can bring forward no witnesses or supporters from amongst distinguished men' (*nec testes ullos e claris viris nec laudatores poterit adhibere*, *Fin.* 2.67).[28] Regarding the Epicurean position, Cicero adds in a vivid phrase that 'history is mute' (*historia muta est*, *Fin.* 2.67): Epicureans have no convincing

[27] Cicero also mentions that Thorius had 'so little fear towards death that he died in battle for his country' (*Fin.* 2.63), a fate apparently of no avail in the contest with Regulus, presumably because freedom from fear of death is, from an Epicurean perspective, simply part of what it means to maximise pleasure.

[28] Cicero here implies, reasonably enough, that accumulation of examples has a force of its own in conveying the plausibility of whatever general theme the examples are deployed to illustrate.

examples from the past to appeal to that would give weight to their ethical claims.[29]

One might think that the Epicureans are entitled to say: so much the worse for history and for the lives that it has chosen to memorialise. I want shortly to consider a little further what the exact force of Cicero's strategy of holding up theory to the light of example might be. In the meantime, and by way of a preliminary approach, let us consider what connection there is between engaging the emotions and the offering of concrete examples, since, as we have noted, each seems to be contrasted in Cicero's work with the presentation of more formal argument.

One obvious link in the ethical and political context is that however valuable theory, as buttressed by formal argument, might be in relation to the living of a better life, it is examples of specific lives that can either commend theory compellingly to us, or (as in the comparison of lives above) provide powerful opposition to a theory's pronouncements. And the reason it can do this is, I think, as follows: lives are led by concrete human beings, and social arrangements are embodied by concrete human societies. Our primary exposure to good and bad is in the living of our lives within our societies, and in our interactions with other lives and with our own and other societies. This form of exposure to value seems a basic and ineluctable feature of what it is to be human. And it means that we are liable to respond more deeply to well-presented concrete examples than to abstract argument, however formally correct the latter may be.

A particularly rich source of example-giving, as used to corroborate ethical theses, is the *Tusculan Disputations*, which offers, among other things, citations of those who faced death cheerfully to illustrate the principle that death is not to be feared (*Tusc.* 1.89–90, 1.116–17). It is noteworthy that in these passages the giving of examples is contrasted with philosophising and associated with rhetoric. Thus Cicero proclaims at *Tusc.* 1.89: 'what need is there to philosophise about this, when we see that the matter has no great need of philosophy? How many times have not just our leaders but whole armies rushed to a certain death!'[30] And at *Tusc.* 1.116 the Greek rhetorician Alcidamas is said to have written 'an encomium of death

[29] On the persuasiveness of examples in this context, see Inwood (1990: 158). It is an interesting question whether their force derives, as Inwood reads it, from their being 'real-life' rather than 'hypothetical'; see also Brinton (1988: 182). Though clearly the historical Roman connection is of great importance for Cicero's purposes, I am inclined to think it is not so much the claimed veracity of the examples that does the work of persuasion, as it is their concreteness and in that sense their truth to life. On examples in relation to history in Cicero see also Fox (2007: 149–71).

[30] *quid opus est in hoc philosophari, cum rem non magno opere philosophia egere videamus? quotiens non modo ductores nostri, sed universi etiam exercitus ad non dubiam mortem concurrerunt!*

consisting in an enumeration of human evils; though it lacked those highly refined arguments compiled by philosophers, it was not lacking in riches of eloquence'.[31]

A catalogue of examples is also given of those who endured pain nobly, so as to show that pain is endurable (*Tusc.* 2.52–3), and of those who were unimpeachably yet calmly brave, to demonstrate that anger is not a precondition of bravery (*Tusc.* 4.49–50). Cicero speaks of the 'authority' exercised by a particularly striking example of pain endurance (Marius in this instance) in influencing the behaviour of others (*valuit auctoritas*, *Tusc.* 2.53); no doubt he considers that the narration of such examples has a similar power to affect us.[32] And it is surely the way they engage us emotionally that is at least in part responsible for this: we are moved by the cheerfulness of Socrates, or the nobility of Regulus, in adversity; we feel Theophrastus's pain. And these responses can lead us to acknowledge, or perhaps are themselves a form of acknowledgement – Cicero speaks at one point of 'seeing' (*videsne*, *Tusc.* 2.53) – of the principles they are intended to exemplify.

It would evidently be a mistake to regard the use of techniques of argument, on the one hand, and of emotional arousal, on the other, as belonging for Cicero to entirely separate domains. He is clear that when it comes to the business of oratory, these must operate in tandem in the construction of an effective speech.[33] Likewise, in regard to the communication of philosophical ideas, he envisages the two as ideally working in harmony, as his endorsement of combining the 'oars' of dialectic with the 'sails' of rhetoric at *Tusc.* 4.9 (cf. *Tusc.* 4.33) testifies. Mere recognition that, for example, a conclusion follows deductively from premises (even premises one accepts as true or can't see as obviously false) is often inadequate to the task of inducing real conviction: people 'assent without being changed in their soul and go away the same as they came' (*qui assentiuntur nihil commutantur animo et iidem abeunt qui venerant*), as Cicero puts it, critiquing Stoic style, at *Fin.* 4.7.[34] Emotional commitment must

[31] *laudationem mortis, quae constat ex enumeratione humanorum malorum*; *cui rationes eae, quae exquisitius a philosophis colliguntur*, *defuerunt*, *ubertas orationis non defuit.*

[32] At *Orator* 120 Cicero speaks of the authority that the offering of examples brings to a speech; cf. *Inv. rhet.* 1.49.

[33] See esp. *Part. or.* 4–5, 27, 46.

[34] See also *Fin.* 4.52 on the failure of Stoic argumentation 'to correct our lives, plans and wills' (*vitam nostram*, *consilia*, *voluntates … corrigi*); and *Tusc.* 2.29, 2.42. But cf. *Tusc.* 1.24 where even Plato's 'unsurpassed eloquence' fails, with the *Phaedo*, to produce more than temporary conviction in Cicero's interlocutor about the immortality of the soul, where this seems part of a larger Ciceronian strategy to represent Roman eloquence (specifically, his own) as an advance on Greek.

be secured.[35] And as we have seen, at least in the areas of ethics and politics, concrete illustration can often make or break an idea more forcefully than well-reasoned argument.

1.3 Rousing the Emotions: A Puzzle

Now, however, we confront a problem, one that seems on the face of it to represent a direct clash between the goal of the philosopher and that of the orator. Cicero argues at length in the *Tusculans* in favour of the idea that the good and wise person does not experience any form of emotional disturbance. To take one case mentioned above, Cicero puts to use the giving of examples in service of the proposition that bravery does not require anger. That being so, how can one who signs up to the idea that emotional disturbance is ideally to be eliminated then in good conscience recommend a practice one of whose principal objectives is to arouse the emotions? Cicero, as we have seen, tells us frequently that the ability to do this is a mark of the good orator, and in fact speaks of it as one of his own particular strengths (*Orat.* 128–9).

It is a testament to Cicero's intellectual honesty that he shows awareness of the problem himself. At *Tusc.* 4.55, in the course of his attempt to rebut the Peripatetic thesis that the emotions are a useful and necessary part of the good life, he responds, citing his own practice, that the orator ought to act out rather than experience the emotions he wishes to arouse in the audience; but he also concedes that 'for one who cannot make use of reason, it is useful to make use of emotion' (*utile est enim uti motu animi*, *qui uti ratione non potest*). He coyly includes the orator in this employment of utility by refusing to spell out its further meaning 'lest we reveal the secrets of the rhetoricians' (*ne rhetorum aperiamus mysteria*). He then implies, by reiterating that 'we are discussing the wise person' (*de sapiente quaerimus*), that it is only the latter ideal figure who can operate free of emotion.

Surely, though, the wise person is, as such, a figure we ought to aspire to? As if to highlight the problem he is raising, Cicero lays no emphasis here, as he sometimes does, on the power of orators to soothe as much as inflame emotion when that is conducive to their purposes.[36] His insistence

[35] I am neutral for the purposes of this paper on the question of what Cicero takes emotions to be, in particular whether he regards them as either to be identified with, or to essentially involve, beliefs of a certain sort (as seems to be the predominant view in the *Tusculan Disputations*). The point remains, if one does regard emotions as beliefs or belief-involving, that in the ethical sphere our beliefs are rarely changed merely by our being presented with a rational argument that contradicts them.

[36] See e.g. *De or.* 1.53, 1.60, 1.219, 2.35; *Orat.* 122, 132.

on his own ability to do his work as an orator without being emotional himself would have no point unless contrasted specifically with the stirring up of emotion that he is nonetheless able to achieve in his rhetorical practice. But then we are left with a dilemma: be true either to the philosophical ideal of bringing about freedom from emotional disturbance, or to the rhetorical objective of arousing emotion where that suits the orator's purposes. It is not obvious how both goals can be served without one undermining the other.

That the orator merely acts emotional, as Cicero claims about himself, has an air of plausibility, but confirms rather than denies that the goal in this regard is to arouse (genuine) emotion in the audience. Elsewhere Cicero intimates that his prowess in eliciting emotion is in fact to be accounted for by his own experiencing of the emotions that he elicits (*Orat.* 130–2). His remarks about utility, moreover, seem blatantly unsatisfactory. Firstly, they raise the paradox that, in order to persuade at least some of his addressees that emotional disturbance should be eliminated, Cicero may need to rely on techniques that militate against that outcome. Secondly, even if it is only the wise person who can be completely free of emotional disturbance, that person is, as noted above, an ideal whom we should aspire to emulate. If the best state is to be free of emotion, then it seems hypocritical to support a practice one of whose major weapons is the incitement of emotion.

Perhaps the charge of paradox is resolvable: one climbs the ladder in order to throw it away. Only when fully committed, heart and soul, to the desirability of eliminating emotional disturbance, can the goal of successfully eliminating it then be achieved. At *Tusc.* 4.55 Cicero quotes a line from the poet Afranius apparently commending distress (picking up its citation in the Peripatetic cause at *Tusc.* 4.45), to the effect that it is right for a dissolute youth to feel that way – such a feeling might, one assumes, mark the desire for reform of one's troubled psychological state.[37]

Cicero does, I think, implicitly acknowledge the more general charge of hypocrisy that could be levelled at him when it comes to the orator's proprietary role in the arousing of emotion. At *Tusc.* 4.58 he tells his interlocutor: 'you think that he [the wise person] is free from all disturbance, and you want to be' (*illum enim putas omni perturbatione esse liberum, te vis*).

[37] Admittedly, there is a residual paradox if one takes emotions to be mistaken beliefs (see note 35 above): one's distress will thereby be a false evaluative judgement that somehow is supposed to conduce to perfecting one's epistemic state, the attainment of wisdom (my thanks here to Jamie Dow). One might respond that this is the unique case – one's own lack of wisdom – where the belief that something bad is at hand is actually correct (cf. *Tusc.* 3.77–8 on Alcibiades), though when explicitly considering this point at *Tusc.* 3.68–71 Cicero maintains that even here distress is not the appropriate reaction.

Given that this seems to confirm the wise person's role as a paradigm for the rest of us, Cicero must have some justificatory story to tell about the orator's readiness to incite emotion in such contexts as expedience demands.[38] To see what this story might be, let us look more closely at what the expedience in question amounts to.

I suggest that it is primarily social and political. At *Tusc*. 4.55 Cicero compares the orator's deployment of emotion, in particular anger, with that of the centurion and standard-bearer in a military context. And just as a military leader may have to inflame the passions of the troops to ensure that they fight hard for their country, so too the orator may have to rouse his audience's emotions if that will serve whatever wider social and political good his speech aims to uphold. Fomenting an audience's ire against perceived enemies of the state, such as Catiline or Mark Antony, would be familiar examples in the Ciceronian context.

But this in turn implies no simple prioritising of society over individual. Society is prioritised because, in Cicero's view, it is the indispensable precondition of individual flourishing: without a functioning society there is no possibility, as far as Cicero is concerned, of individuals living a good life. This is something he emphasises in book 1 of *De officiis*, in particular via the idea that country is the dearest of all our social ties, embracing everything (else) that we hold dear, and so by implication is the foundation of everything that makes a life worth living (*Off.* 1.57).

If that is right, then Cicero can consistently advocate the stirring up of the emotions in, say, an audience of the Roman people, just so long as this serves the good of Rome, and thereby the good of the Roman people at large. What is needed to ensure the preservation of the possibility of individual flourishing must take priority over the direct inculcation of such flourishing in the individuals concerned, even if the cost of this prioritising is to take the individuals further away, for the time being at least, from achieving that condition.

We can, however, go a little further than providing Cicero's position with a patina of formal consistency. An appeal to the good of society is still, after all, in danger of looking no better than a papering over of potential conflict between, on the one hand, the goal of emotional tranquillity in the individual and, on the other, the need to stir up emotions that will conduce to the wider social good, as the orator in question sees it,

[38] One might argue that the orator merely taps into a disposition to emotional response already present in the addressee. But that hardly represents improvement of the latter's state; and it seems plausible that repeated exposure to oratory of this kind would be liable to instil or entrench such a disposition.

rather than to the best interests of the individual or individuals one is addressing. Scholars do indeed at times give the impression that Cicero thinks, or at least wants his readers to think, that in his hands the methods of rhetoric and dialectic sit in unproblematically happy harmony with one another,[39] and certainly one can find textual support for that thesis.[40] But while achieving such harmony may be Cicero's ultimate aim,[41] it is not an outcome he takes for granted. His manoeuvrings at *Tusc*. 4.55 suggest an expression of discomfort about whether the two methods are suited to working well together, at least once the desirability of freeing oneself from emotional disturbance is in play.[42]

1.4 A Deeper Strategy

I want therefore to argue that Cicero has a deeper and more interesting strategy to utilise, when it comes to demonstrating the centrality of the social dimension, than airy (if heartfelt) generalisations about the need to preserve one's country if anything else that we value is to be preserved. Instead of resting his defence on contingent – and in the nature of the case often contestable – appeals to national security, this strategy is designed to persuade us of an essential connection between the living of an individual flourishing life and the manifestation of one's identity as a social being; and it exhibits, not accidentally, a use of concrete example in a way

[39] See e.g. the remark of A. A. Long (1995b: 58) that Cicero's 'insistence on the common dialectical-cum-rhetorical methodology' of the Academic and Peripatetic schools 'may well be Cicero's own synthetical venture. It enables him to harmonise his rhetorical expertise with his support for both [schools]'.

[40] Dugan (2013a: 32) notes, with particular reference to the discussion of rhetoric in *De oratore*, the 'brusque dismissal of Plato's *Gorgias*, the philosopher's most sustained critique of rhetoric … Cicero cherry picks ideas from Plato as they suit his purposes'. Wisse (2002b: 393) perhaps goes too far in the opposite direction in speculating that 'the question of the morality of rhetoric is in fact mostly avoided' in *De oratore* 'perhaps precisely because Cicero felt that there was no way to guarantee the integrity of the orator'.

[41] For a robust defence of the way Cicero integrates oratory with philosophy in the creation of a distinct dialogue form see Schofield (2008).

[42] Two fine recent studies of the *Tusculans* have little to say about 4.55. Graver (2002a: 171) notes that for Cicero to elaborate on 'the secrets of orators' that he refers to there 'would be to write a work on rhetorical theory rather than on ethics'. Perhaps that is right; but Cicero has already said enough to indicate that the methods of oratory and the goals of ethics may be amenable neither to clean separation nor to straightforward synthesis. Gildenhard (2007: 35 n. 131) comments on 4.55 only as a case of Cicero envisaging 'a multiple audience'; and while speaking, reasonably enough, of Cicero stressing in the *Tusculans* 'the need to communicate the insights of philosophy to a wider audience, and thereby the relevance of political oratory for philosophy (and vice versa)' (155), potentially misleads in adding that 'For Cicero, the Platonic and Aristotelian distinctions between rhetoric and philosophy … are by the way' (156), at least if this is taken to imply that Cicero ignores possible tensions between the projects of philosophy and rhetoric.

intended to wholeheartedly engage us as the objects of persuasion: for it is ultimately we ourselves who serve as the examples.

We saw earlier how Cicero adopts concrete examples – such as the cases of Thorius and Regulus in relation to Epicureanism – as a way of testing the credibility of an ethical theory, and in particular how the appeal to example is aimed at eliciting the emotional responses, not simply the powers of reasoning, of his audience.[43] Let us now look at how Cicero extends this technique, from critical comparison of particular lives with the pronouncements of a theory, to the examination of the relation between a theory and the life of a would-be adherent of the theory. In *De finibus* this results in the raising of questions about the viability of two of the leading ethical theories of his day, Stoic and Epicurean,[44] and with it the holding up for examination of its respective proponents in that work, Cato and Torquatus.[45]

Epicureanism first: Torquatus, Cicero's Epicurean spokesman, is a typically ambitious and well-connected Roman, pursuing the higher reaches of public office. Cicero asks him to consider what effect it would have if he publicly announced that his aim in life was the maximisation of his own pleasure, in accordance with Epicurean tenets, rather than the serving of the public interest (*Fin.* 2.74). Cicero goes on to point out that Torquatus does not in fact present himself in public in terms of the Epicurean rationale at all (cf. *Tusc.* 3.51), but speaks instead, in Stoic and Peripatetic vocabulary to boot, of duty and fidelity, of what is right and honourable, of risking all, even to death, for his country (*Fin.* 2.76).

In suggesting that the Stoics and Peripatetics make a somewhat better fist of matching theory to social reality than do the Epicureans, Cicero, never forgetful of his readership, and of course in this case his particular interlocutor, couches his example in highly Roman terms, with 'the dignity of the Roman people' (*digna populo Romano*) explicitly mentioned as one of Torquatus's slogans. Could not an Epicurean respond that all the case shows is that Roman values are so corrupted that an enlightened Epicurean in Rome will have to dissimulate in order to find favour with fellow citizens?

[43] To this end, Cicero's earlier debate with Torquatus at *Fin.* 1.23–4 and 1.34–5 as to whether the actions of the latter's heroic ancestors could be interpreted as being in line with Epicurean principles seems particularly well-chosen, given the affective power of family in Roman culture: note the emotive language – 'towards their children, their own flesh and blood' (*in liberos atque in sanguinem suum*, *Fin.* 1.34) – used by Torquatus in defending his ancestors' putting to death of their sons. On the debate's ethical import see Woolf (2015: 134–5) and Langlands (2018: 258–67).

[44] In *De finibus* book 5 Cicero also examines the ethical theory of the 'Old Academy' which I do not discuss here.

[45] For discussion of Cicero's use of dialectic in *De finibus* see Lévy (1984), which focuses on Cicero's uncovering of contradictions within a theory rather than (as I do here) the relation between theory and person.

That response, I think, misses something important about the example: it does not turn on whether Roman values are right or wrong. Rather, it asks us to acknowledge the undesirability of having to live a lie – of presenting oneself to others in a way that misrepresents one's true motives.[46]

We can see this further if we turn to the Stoic example, where it becomes clear, notwithstanding Cicero's use of Stoicism to embarrass Torquatus, that in this case too there is vulnerability. A lawyer, observes Cicero, could not credibly conclude the case for the defence by declaring that the punishments of exile and confiscation were not evils, but merely to be 'rejected' (the Stoics holding that nothing else is good and evil except virtue and vice, respectively); nor could an orator announce, with Hannibal at the gates, that captivity, enslavement, and death were no evils (*Fin.* 4.22). Moreover, the Senate would not be able to speak of Scipio Africanus's triumph as won by his valour, since he did not meet the standards of perfection required, in Stoic terms, for virtue (*Fin.* 4.22). For the Stoics, then, their own ethics lays them open either to ridicule or the taint of hypocrisy: ridicule if they proclaim their ethics out loud; the burden of hypocrisy – as Cicero implies is their actual choice[47] – if they do not.

Once again, while the Roman context is unmistakable, that context is not meant by Cicero to strike us as singular – as if one might convincingly respond that other societies would be responsive to the Stoic maxims in analogous contexts.[48] It is, rather, Stoicism as a theory in any way suited for use as the basis for social or political engagement that we are encouraged to call into doubt. And while the Epicureans are a school to whom Cicero is mostly hostile, he shows on the whole a good deal of respect for Stoic ideas,[49] if not always for the way they are expressed. Thus his attack on certain distinctive features of their ethics for not being publicly proclaimable shows that this is not an issue tied to theories that Cicero finds himself personally out of sympathy with. Rather, we are offered here, in the person of

[46] On Cicero's handling of the problem of public proclamation in the second book of *De finibus* see Inwood (1990: 154–5), though I am not sure it is helpful to associate it, as Inwood does, with the Kantian notion of universalisability. It is the liveability of an ethical precept in the social context that is the essence of the Ciceronian challenge: a rather different sort of critique.

[47] 'What sort of philosophy is it that speaks in a common idiom (*communi more*) in public, in its own idiom in its treatises?' (*Fin.* 4.22). Cicero is doubly scornful since he holds that the distinctive Stoic vocabulary is a show of novelty masking substantive similarity with the common ways of thinking that it purports to reject (*Fin.* 4.21–3); I shall not pursue this additional complexity here.

[48] At *De oratore* 3.66 the ethical view of the Stoics is said to differ not only from that of their fellow citizens but from 'all other nations (*ceteris … gentibus*)', and this is given as a reason for its being incapable of public promulgation (*quo uti ad vulgus nullo modo possit*).

[49] His reliance on the Stoic theory of emotion in *Tusc.* books 3 and 4 is one obvious, directly relevant, example.

Cato, Cicero's Stoic interlocutor, famous for nobly attempting to live out his Stoicism,[50] a particularly dramatic form of revelation to Cato himself and thereby to us, Cicero's readers, of the limits of such attempts.

To return to the attack on the Epicureans: no doubt the idea that a conventionally ambitious Roman such as Torquatus cannot be a consistent Epicurean presents a practical challenge for a would-be advocate of Epicurean doctrine. But here too Cicero is after more than the highlighting of tension between theory and Roman convention. It is not, again, as if we read Cicero's critique and think: the problem of public proclamation is one peculiar to the culture of ancient Rome. In the political sphere, it is hard to imagine any politician in any age being able to assert (however truthfully) that they are acting to promote their own pleasure or well-being rather than the public good, even if, as it might turn out, the latter conduces to the former. It is equally hard, in many other vital areas of human association (friendship for example), to imagine justifying one's participation to those one is associating with by reference to one's own pleasure rather than concern for one's associate.[51]

A Stoic or Epicurean might continue to insist that, once society has at last seen the light, and reformed itself in accordance with Stoic or Epicurean principles, then the problem under scrutiny will disappear.[52] Maybe so. But that, I think, does not diminish the force of Cicero's appeal to a concrete set of social circumstances and to that most compelling of examples: one's own self. The appeal purports to uncover in Cicero's interlocutors a fundamental norm of the good life, that of being able to live and speak openly in one's society. The problem it sets is that where an ethical theory cannot be publicly proclaimed by a supposed adherent, then the

[50] Cicero's frustration with that attempt in the context of practical politics is expressed in famously salty language in a letter to Atticus (*Att.* 2.1.8 = 21 SB); see also *Pro Murena* 60–6, a sardonic attack on Stoicism as a bad fit for Cato. The *Paradoxa Stoicorum* offers a more generous view of Cato as a public proponent of Stoicism, while at *Brutus* 118 Cato is presented as an honourable exception to the inadequacy of Stoic rhetoric. On Cicero's view of Cato as philosophising orator see further Stem (2005) and Baraz (2012: 131–6).

[51] A point Cicero makes with reference to his own friendship with Torquatus's father at *Fin.* 2.72. The centrality of friendship to the Epicurean good life means that an Epicurean cannot simply appeal to their ideal of quietist communal living to evade Cicero's critique. Society, broadly construed, is as important to Epicureans as to any other group. And while restricting one's society to those of like mind is an option (cf. *Fin.* 2.76), one cannot help oneself to the idea of a like-minded society independently of consideration of the conditions of possibility of a social existence.

[52] More bluntly, a Stoic might simply deny that dissimulation before an audience too ignorant to spot it was anything to be troubled by (my thanks here to George Boys-Stones). Interestingly Cato dismisses the part of Cicero's critique of Stoicism in *Fin.* book 4 that includes its alleged inability to be proclaimed as 'popular stuff' (*popularia*, *Fin.* 4.24), a term Cicero ripostes that he is not uncomfortable being labelled with (ibid.).

latter is faced with two unpalatable choices, each equally undermining of the subject's status as a social being: rejection if the theory is proclaimed openly; a life lived covertly if it is not.

Note, then, that this strategy, while not dealing directly in formal argument, nonetheless serves as a way of offering support for the claim that society is the precondition of the good life, a claim which I suggested above Cicero uses to justify the orator's use of emotion. Instead of this claim looking like a rather flimsy cover for the orator's potential manipulation of the individual – arousing emotions associated with patriotic behaviour as a means of ensuring that country is defended with the requisite commitment – it allows us to see the substance of the idea that we cannot flourish as individuals independently of our participation in society. It does this by holding up a theory against an individual proponent of that theory, locating the theory in the concrete circumstances of the individual's life.[53] In so doing it provides a critique of the theory, one which utilises the orator's aptitude for well-directed examples to make a point relevant to philosophical ethics itself: an ethical theory that cannot be lived openly has failed as a theory.

1.5 The Personal Dimension

At this point, it seems to me that the lines between dialectic and rhetoric have become instructively blurred. And this is because what the two have in common, in relation to the way Cicero uses them, is that they are both in a certain important sense personal. The point that, for persuasion to be effective, one needs to take account of the full psychological makeup and circumstances of the individual or audience that one is addressing, is one that Cicero frequently makes, and it is a skill that he regards as essential to the art of the orator,[54] most succinctly perhaps when he describes the

[53] Though I shall not pursue the issue here, it is natural to regard Cicero's (presentation of) his own experiences of exile and of enforced political exclusion as providing both motivation for and concrete illustration of the claim that a life that cannot be lived openly is no sort of human life.

[54] See e.g. *De or.* 1.17, the whole work influenced in this regard by the conditions for a genuine art of rhetoric laid out in Plato's *Phaedrus* (esp. 270e–272a). At *De oratore* 1.28–9 explicit homage is paid to the *Phaedrus*, which might also indicate, in the way the scene-setting of the latter is modified, a sense of comparative Roman advancement: Cicero's focus on, and fecund use of, examples is, I suggest, one way in which he sees such advancement manifested (on the relation of *De oratore* to its Greek inheritance see Zetzel, 2003). At *De oratore* 1.222 Antonius asserts that the orator, in possessing the ability to 'work upon people's feelings and thoughts' (*sensus mentesque pertractat*), has no additional need for 'the outlines of the philosophers' (*philosophorum descriptiones*). Whether Cicero endorses Antonius's conclusion or not – it is at odds with the viewpoint earlier presented by Crassus (e.g. *De or.* 1.53–4, 1.60) – he presumably has no quarrel with what the premise ascribes to the accomplished practitioner of rhetoric.

special wisdom of speakers as consisting in 'a command of circumstances and characters' (*ut sit temporum personarumque moderator*, *Orat.* 123).[55] At *Tusc*. 3.79 Cicero recommends the forensic orator's skill of 'adaptation to circumstance and character' (*ad tempus … ad personam accommodamus*) for the (philosophical) task of treating those in states of high emotion, in regard to the alleviation of grief especially.

Not everyone can simply be fed a piece of deductive argument and be expected to be won over. We are diverse and complex creatures, and a battery of techniques, together with sensitivity to a range of psychological profiles and experiences, will therefore be needed for a high success rate. In particular, one is more likely to engage the emotions (even when the ultimate objective is their pacification), and therefore engender wholehearted conviction, if one can bring to bear concrete examples as cases of – real or credibly imagined – lived experience. Depending on their own outlook and experience, different groups or individuals are likely to be more or less susceptible to different cases. But, as we have seen, there is one case which by its nature is likely to prove more compelling than any other: that in which the example appealed to is oneself.

In this sense the personal dimension we have touched on is far from alien to a certain tradition of philosophy, and more specifically of dialectic, that Cicero, as a follower of the sceptical Academy, is deeply engaged with.[56] One might label it the Socratic tradition, in which to use dialectic is to show an interlocutor, by question and answer, that an idea they are espousing is in tension with other beliefs or values that carry weight with them. Thus at *De oratore* 1.43 the Academy's procedure is described as 'compelling you [the interlocutor] yourself to contradict whatever it is you have said' (*quae*, *quidquid dixisses*, *id te ipsum negare cogeret*). And at *De finibus* 2.2 Cicero describes Socrates's own method as one in which the latter would only 'express a view in response to the opinion of an interlocutor that had been elicited by questioning'.[57] Cicero then describes

[55] At *Fin*. 4.6 Cicero attributes the inclusion of specific characters and circumstances (*personis temporibusque*) to the early Academic and Peripatetic rhetorical traditions, by contrast with the Stoic. Cicero was well aware of the sophisticated 'persona' theory of the later Stoic Panaetius which he expounds in *De officiis* (written about a year after *De finibus*), 1.107–21. But his interest at *Fin*. 4.6 is not in theories of human character but in the attention to human character required for persuasive success, where he sees the Stoic approach as singularly deficient even in the transmission of the more uplifting of their own ethical tenets (*Fin.* 4.7).

[56] On dialectic in the sceptical Academy see Castagnoli (2019).

[57] *percontando atque interrogando elicere solebat eorum opiniones quibuscum disserebat, ut ad ea quae ii respondissent si quid videretur diceret*. See also *Inv. rhet.* 1.53. On Cicero's use of Socratic method see Gorman (2005).

his own preference, over continuous discourse, for 'stopping at each individual point and ascertaining what [the interlocutor] concedes and what he denies, so one can draw the inferences one wishes from what has been conceded and thus reach a conclusion' (*Fin.* 2.3).[58]

It is notable, in the light of this, that when Cicero questions Torquatus about the credibility of the Epicurean claim that freedom from pain is (a form of) pleasure, he insists that anyone who 'knows himself' (*qui ipse sibi notus sit*) would fail to be convinced by the claim (*Fin.* 2.16). When Torquatus then complains that Cicero is pressing him too hard on the Epicurean refusal to separate the two notions, Cicero asks him if he would therefore 'prefer that we debate in rhetorical rather than dialectical fashion' (*rhetorice igitur … nos mavis quam dialectice disputare?*), where the 'rhetorical' mode is characterised as being one of continuous discourse (*perpetua oratio*),[59] though both parties agree – fortunately for the continuation of the work – that this latter style can be a valid form of philosophical discussion too (*Fin.* 2.17).[60]

That being so, when Cicero goes on later in book 2, officially in the mode of continuous discourse, to present Torquatus with the claim that what the latter publicly pronounces is out of step with Epicurean doctrine, one should not suppose that this represents any falling away on Cicero's part, despite Torquatus's best efforts at derailment, from the Socratic approach.[61] Perhaps the clearest indication that Cicero has it in mind throughout is his exhortation to Torquatus at *Fin.* 2.69 and again at *Fin.* 2.118 to look within himself and decide whether it is really Epicureanism that he stands by.[62] 'You will not', he tells Torquatus, 'be able to hold on to those [Epicurean] doctrines if you examine yourself, and your own

[58] *cum in rebus singulis insistas et intellegas quid quisque concedat, quid abnuat, ex rebus concessis concludi quod velis et ad exitum perveniri.*

[59] Assent is given for a similar transition at *Tusc.* 1.16–17.

[60] Here Cicero may have in mind the method of arguing 'on both sides of a question' (*in utramque partem*) that is cited at *Fin.* 5.10 (cf. *Fat.* 1; *Acad.* 2.7), and which he describes at *Fin.* 3.3 as characterising the whole debate he conducted in books 1 and 2. He attributes the method originally to Aristotle and associates it with instruction 'not only in dialectical but also in rhetorical mode' (*non dialectice solum sed etiam oratorie*, *Fin.* 5.10). See also *De or.* 3.80; *Orat.* 46; *Tusc.* 2.9.

[61] Although it is true that Cicero does not explicitly label the procedure he describes as Socrates's at *Fin.* 2.2 as 'dialectic' (my thanks here to Luca Castagnoli), he does implicitly contrast it with continuous discourse at *Fin.* 2.3, which is in turn contrasted with the dialectical mode at *Fin.* 2.17. So it seems reasonable to suppose that Cicero is comfortable associating Socrates with the practice of dialectic even if (perhaps for good historical reasons) not under that name.

[62] Smith (1995: 312) interestingly cites this latter passage as a case where Cicero aims, in rhetorical style, contrary to his professed ambitions earlier in the work, 'to intensify feelings, not to relieve them'; but Smith seems to me to underestimate the philosophical pedigree of Cicero's form of entreaty to Torquatus: 'Look, yourself, within your own mind, scan it with all deliberation, and ask yourself whether you prefer to enjoy continual pleasures …' (*tute introspice in mentem tuam ipse eamque omni cogitatione pertractans percontare ipse te, perpetuisne malis voluptatibus perfruens …*, *Fin.* 2.118).

thoughts and values' (*non potes ergo ista tueri … si te ipse et tuas cogitationes et studia perspexeris*, *Fin.* 2.69).[63]

Epicurean doctrines may seem appealing in the abstract, but, Cicero contends, they do not chime in with Torquatus's deepest values and beliefs.[64] Now evidently an interlocutor with different values and beliefs might not feel under the same strain with the profession of Epicureanism. But I have suggested that for Cicero this personal dimension is not primarily a matter of exploiting the possibly idiosyncratic beliefs that a particular interlocutor might hold. Rather, his approach is personal in that it explores and puts to the test the ability of the interlocutor to live out his supposed creed consistently.[65]

That self-reflection is called for here implies a certain opacity on the part of the interlocutor as to his motives: he thinks, for example, that his deepest commitments are Epicurean but they are not, since any goal that expresses his nature as a social being – that of friendship, for example, or political participation – requires such commitments to be inert, at least when it comes to the very basis of a social existence: justifying oneself to others.[66] If this is indeed a fundamental requirement of living a satisfactory human life, then Cicero has gone some way towards showing that, and why, our good as individuals is inseparable from our identity as social beings. As for Torquatus, so too for us: we as readers are invited, in responding to Cicero's text,[67] to examine ourselves and our lives, and come to acknowledge which ethical norms have genuine authority for us.

[63] Brittain (2016: 33) claims the switch to continuous discourse at *Fin.* 2.17 is a case of what he interprets as the deliberate presentation on Cicero's part of 'mismatch between ideal and practice' of method in *De finibus*. But *Fin.* 2.69 and 2.118 seem rather to emphasise continuity across the switch in keeping the interlocutor held to account.

[64] It may be that Torquatus would not himself be unfamiliar with the idea of self-examination: Philodemus's *Peri parrhēsias* (*On Frank Speech*) seems to describe an Epicurean milieu in which techniques for inducing self-reflection were central. If so, then Cicero will have a more suitable pupil in Torquatus than the latter might care to admit; see also next note.

[65] This is strikingly seen at *Fin*. 2.99 in the case of Epicurus himself whose 'own uprightness of character' (*probitate ipsius ac moribus*), as revealed by the sentiments expressed in his deathbed letter to Hermarchus, Cicero takes to be flatly inconsistent with his official hedonistic doctrine. Epicurus 'is thus refuted by himself' (*ita redarguitur ipse a sese*), surely the most powerful refutation there can be. Not even Epicurus, it turns out, is an Epicurean. Intriguingly, some Epicureans seem to have deployed this sort of unliveability argument against their own opponents (see Sedley, 2019: 88 with n. 22), which suggests the possibility of Cicero deliberately turning the dialectical tables: Epicureans can hardly resist a tactic that they are happy to utilise themselves.

[66] Such issues of justification also turn up in radically non-Epicurean contexts, as the problem of 'self-effacement' in ethics shows (my thanks here to Jason Carter): something seems to have gone wrong if, for example, one responds to the thanks of a friend in hospital for one's visit by saying 'that's OK, I was just doing my duty'; see further Stocker (1976). For an influential modern ethical theory that takes justifiability to others as basic see Scanlon (1998).

[67] In his preface to *De finibus* Cicero shows himself keenly aware of his potential readership; see esp. *Fin.* 1.7–8, 1.10–12.

Cicero's appeal to Torquatus represents an insistence that to engage in philosophy's cardinal virtue of self-examination is to face squarely some basic truths about the practical, and in particular the social, realm. By the same token it serves as a vindication of (a certain kind of) philosophy and, specifically, of dialectic. We have, in this context, moved some way from a clean-cut distinction between dialectic and rhetoric.[68] Dialectic simply as formal argument is liable to fail because it is unable to either instil or dislodge deep commitments. Yet at the same time dialectic in the Socratic mode can be targeted at uncovering and testing the genuineness of a subject's professed commitments. Rhetoric, with its sensitivity to the subject as a concrete and psychologically complex whole, has a better chance of inducing real conviction in its audience, but carries with it the risk of manipulating its subjects to serve a wider goal rather than improving them as individuals.

Achieving the latter outcome is not, for Cicero, a matter of partisan appropriation by either rhetoric or dialectic. It is, rather, a synthesis of both that he puts to work, one that consists not in a bland smoothing over of differences but in a creative and critical reckoning with what he takes to be the most effective aspects of each. I have argued that the use of such a synthesis gives him the resources to tackle the very issue of how potential conflict in the aims of rhetoric and philosophy is to be reconciled. This shows us a practical, indeed pragmatic thinker – but also, as I hope the evidence presented here has illustrated, a philosophically sophisticated one, whose substantive enquiries are in no small part shaped, in a manner worthy of his philosophical predecessors, by an attentive approach to questions of method.[69]

[68] One may note that while Socrates himself is adduced as the source for the separation of philosophy and oratory at *De oratore* 3.60, he is also said there to have possessed exceptional eloquence as well as wisdom, exemplifying the synthesis of the two even as he sought to sunder them.

[69] Earlier versions of this paper were read at the Universities of Durham, Edinburgh, Leeds, Oxford, and the Institute of Classical Studies, London. My thanks to the audiences on those occasions, and to two anonymous referees, for helpful questions and comments.

CHAPTER 2

Cicero's Platonic Dialogues

James E. G. Zetzel

My title contains a fundamentally false description: Cicero never, to the best of my knowledge, described any of his dialogues as 'Platonic'.[1] He speaks of some of them as 'Aristotelian' for different reasons in different contexts: because of the presence of the author in the prefaces and in the dialogue itself and because much of the dialogue consists of long expository speeches rather than dialectic.[2] Characters in some of Cicero's dialogues, on the other hand, refer frequently to Plato and see *themselves* as figures in a Platonic dialogue: Scaevola in *De oratore* starts the conversation by saying that the plane tree in Crassus's estate at Tusculum reminds him of the plane tree in the *Phaedrus* (*De or.* 1.28); Scipio and Laelius in *De re publica* both refer to the *Republic* and the introduction to the *Somnium* almost certainly referred to the Myth of Er at the end of the *Republic*;[3] and in *De legibus* 1.15 the speakers agree to take Plato's *Laws* as the model for their own conversation. These are of course not the only Platonic references in the settings of the Ciceronian dialogues; the *Brutus*, notably, also mentions a statue of Plato at the beginning of the conversation.[4] But *Brutus* was written in 46, after the civil war, while the three dialogues on which I am concentrating here – *De oratore*, *De re*

[1] The one possible exception to Cicero's reticence about his Platonic models is *De re publica* book 1, fr. 1b, where the elder Pliny records that Cicero called himself *Platonis comes* in the dialogue. But the fragment may in fact have come from a speech of Scipio within the dialogue rather than from Cicero's preface. In *De legibus* Cicero speaks of his debt to Plato as a character in the dialogue, not as the author. In keeping with its origin as a talk, this paper is only lightly annotated. A great deal has been said about these texts, and there is considerably more to be said; I have done so in Zetzel (2022). I cite *De oratore* from Kumaniecki's text, *De re publica* according to Ziegler's text and chapter numbers (with fragments within chapters numbered as in Zetzel, 2017c), and *De legibus* from Powell's text. I use the abbreviation *LP* to refer to the invaluable commentary of Leeman et al. (1981–2008). All translations are my own; those of *De re publica* and *De legibus* are taken from Zetzel (2017c). I am grateful to Katharina Volk for improving a draft of this paper and to the participants in the Durham conference for their comments and suggestions.

[2] The problem of 'Aristotelian' and 'Heraclidean' dialogues is thankfully not relevant here.

[3] Scipio: *Rep.* 1.65, 2.3, 2.51, 4.5b–c; Laelius: *Rep.* 2.22, 4.4; Myth of Er: *Rep.* 6.3–4.

[4] *Brutus* 24. I am also omitting the unfinished dialogue known as *Timaeus*, which was not written before the middle of 45; see Sedley (2013).

publica, and *De legibus* – are generally taken to belong to the same period of Cicero's life, the years 55–51 BCE. The chronology of *De legibus* is problematic, and I will return to that later; but that these three dialogues share a great deal is clear, and my focus here is on the ways in which they are connected to one another. I want to suggest that the relationship between *De oratore* and *De re publica*, and between those two dialogues as a pair and Plato, is significantly different from the relationship between *De re publica* and *De legibus*, and between those two dialogues as a pair and Plato.[5]

These three dialogues are all, in one way or another, meta-Platonic rather than Platonic in that the characters within the dialogue consciously and fairly regularly cite Plato's works as models for the conversations in which they are themselves engaged, but they treat their Platonic models somewhat differently. *De oratore* and *De re publica* both discuss, and make problematic, the relationship between Roman life and Plato. To some degree, of course, that is only part of the larger problem addressed in both dialogues, of the role of philosophy in Roman public life in general; however, they share a distinctly ironic, not to say hostile, attitude toward Plato in particular. *De legibus*, on the other hand, is a more straightforward and generally unironic attempt to adapt a Platonic text to a Roman context. It also sets up a clear homology: *De legibus* is to *De re publica* as Plato's *Laws* is to his *Republic*. *De legibus* sees *De re publica* as a straightforward account of Roman government as the best possible constitution for which one might compose a realistic set of laws. That this involves a misinterpretation of the relationship between the two Platonic dialogues is interesting but tangential: whether right or wrong about Plato, Cicero's *De legibus* presents *De re publica* as a text to be studied, elucidated, and enlarged. *De oratore* and *De re publica* are related differently: They are bound to each other by their casts of characters, their subject matter and historical allusions, their form, and the cross-references between them.[6] Cicero may have had *De re publica* in mind when he wrote *De oratore*, and at the very least in *De re publica* he makes it seem that way: Each dialogue complements the other. The relationship between *De re publica* and *De legibus* is much simpler: *De legibus* looks back to *De re publica*, but *De re publica* in no way anticipates *De legibus*. That relationship, to be sure, mirrors the relationship between Plato's *Republic* and *Laws* – but that mirroring too is different from the way *De oratore* and *De re publica* collectively link together *Republic*, *Gorgias*, and *Phaedrus* more closely than Plato himself does.

[5] There has been a recent revival of interest in Ciceronian dialogue and Cicero's use of Plato: see, for instance, Auvray-Assayas (2001, 2015), Gildenhard (2013a, 2013b), and Schofield (2008, 2017a). They are all broadly relevant here; I cite them below for specific debts or disagreement only.

[6] I have discussed this in more detail in Zetzel (2022: 163–78).

I will start with the *Phaedrus*, as Cicero himself does in *De oratore*. At the beginning of the conversation, Scaevola observes the Platonic plane tree, which serves in turn to provoke Crassus to speak about oratory.[7] That is balanced by the reminiscence of the *Phaedrus* on the last page of *De oratore*, where Crassus praises the young Hortensius just as Socrates (ironically) praises the young Isocrates at the end of Plato's dialogue.[8] But there is also a reminiscence of the *Phaedrus* on the last page of *De re publica*, where Cicero substitutes the unconvincing proof of the immortality of the soul from the *Phaedrus* for the equally unconvincing proof of the immortality of the soul that Cicero (or Scipio, or Africanus) might have drawn from the *Republic*.[9] *De legibus* also invokes the *Phaedrus*, but in a different way (*Leg.* 1.1–3, 2.6); I will return to that later.

In the case of both *Gorgias* and *Republic*, Cicero echoes the same passage of each of Plato's dialogues in each of his. The one from *Gorgias* is drawn from Callicles's attack on philosophers as being like children; it adapts Plato's reference to Euripides's *Antiope* by citing Pacuvius's version of the same play and in both cases goes beyond Plato to supplement Zethus by quoting a line of Ennius spoken by Neoptolemus:[10]

> *De or.* 2.155–6: 'And since you have those men [Scipio, Laelius, Furius] as precedents, Antonius, I wonder why you have more or less declared war on philosophy like Zethus in Pacuvius.'
>
> 'Not at all,' said Antonius, 'instead I have decided to philosophize like Neoptolemus in Ennius: "just a little; it doesn't totally please me."'[11]

> *Rep.* 1.30: 'But in fact he [Sex. Aelius] used to say (I listened to him often and happily) that Pacuvius's Zethus was too hostile to learning; he preferred Ennius's Neoptolemus, who said that "he wanted to be a philosopher, but only a little; it didn't please him totally."'[12]

[7] See also Zetzel (2003).

[8] The *Phaedrus* is explicitly cited only at *De or.* 1.28 (*Phdr.* 229ab); it is used or alluded to also at *De or.* 1.134 (265b); 2.15–18 (242c–d; cf. Zoll (1962: 111–12)); 2.30 (260e); 3.22–3 (261a7–b2; cf. Wisse in *LP* 4.136); 3.228–30 (279a). For the broader presence of *Phaedrus* in *De or.* 1, see also Schütrumpf (1990). Wisse (in *LP* 5.380) takes the praise of the young Hortensius, with some hesitation, as unironic, but as he notes, Cicero's attitude to Hortensius is ambiguous.

[9] *Rep.* 6.27–8; Plato is not named.

[10] Callicles refers to Zethus at *Gorgias* 485e4; cf. the valuable discussion of Dodds (1959: ad loc.). *Gorgias* is also explicitly cited at *De or.* 3.129 (*Grg.* 447c) and Crassus's study of the dialogue with Charmadas is referred to at *De or.* 1.47. See further Schütrumpf (1988).

[11] *'… quos tu cum haberes auctores, Antoni, miror cur philosophiae sicut Zethus ille Pacuvianus prope bellum indixeris.' 'minime' inquit Antonius 'ac sic decrevi philosophari potius, ut Neoptolemus apud Ennium: "paucis nam omnino haud placet".'*

[12] *'atqui idem (multum enim illum audiebat et libenter) Zethum illum Pacuvi nimis inimicum doctrinae esse dicebat; magis eum delectabat Neoptolemus Enni, qui se ait "philosophari velle, sed paucis, nam omnino haud placere".'*

As for *Republic*, the same attack on the unrealistic politics of Plato's dialogue appears in both *De oratore* and *De re publica*, spoken by the more practical interlocutors Antonius and Laelius:

> *De or.* 1.224: But let him keep aside for himself philosophers' books for the peace and quiet of a Tusculan villa like this, so that he doesn't borrow from Plato when he needs to speak about justice and good faith. When Plato thought he needed to put such things into words, he made up a new city in books; that's how alien the things he thought he had to say about justice were to normal life and the customs of cities.[13]

> *Rep.* 2.21: That great man, the greatest of all writers, chose his own territory on which to build a state to suit his own ideas. It may be a noble state, but it's totally alien to human life and customs.[14]

Cicero in these two dialogues has constructed a Plato whose negative views of oratory and statesmanship are as closely intertwined as Cicero's positive views of both.

Just as important as the bundling of Platonic allusions is an equally tangled set of Roman cross-references. Immediately before the allusion to Callicles in *De oratore* is a description of the Philosophers' Embassy of 155, in which we learn that Scipio, Laelius, and Furius Philus listened to their speeches. It is thus no surprise that Philus and Laelius are able to recreate in *De re publica* book 3 the Carneadean antilogy on justice which they had heard in *De oratore*.[15] There are significant overlaps in the settings of the two dialogues as well. Scaevola Augur, the Cephalus figure of *De oratore*, was Laelius's son-in-law, and appeared in *De re publica* in that role (as he also did later in *De amicitia*). Rutilius Rufus was Cicero's alleged source for the conversation of *De re publica*, supposedly told to Cicero while Rutilius was in exile after the trial described by Antonius in *De oratore* (see below); his nephew Cotta is the alleged source for *De oratore*. Each dialogue represents (and is in some sense about) the transmission

[13] *… philosophorum autem libros reservet sibi ad huiuscemodi Tusculani requiem atque otium, ne, si quando ei dicendum erit de iustitia et fide, mutuetur a Platone, qui cum haec exprimenda verbis arbitraretur, novam quandam finxit in libris civitatem; usque eo illa, quae dicenda de iustitia putabat, a vitae consuetudine et a civitatum moribus abhorrebant.* Gildenhard (2013a: 232–3) misinterprets *De or.* 1.224 to mean that Antonius took the *Republic* to be a standard Roman source for ideas about justice. That Cicero had *Republic* in mind in writing *De oratore* is also shown by his comparison of Scaevola to Cephalus in *Att.* 4.16.3 = 89 SB.

[14] *nam princeps ille, quo nemo in scribendo praestantior fuit, aream sibi sumpsit in qua civitatem exstrueret arbitratu suo: praeclaram ille quidem fortasse, sed a vita hominum abhorrentem et moribus.*

[15] Powell (2013) makes the suggestion that Cicero invented the Carneadean debate more or less from whole cloth. That is unconvincing, and partly based on misinterpreting the evidence of both Cicero and Lactantius.

of knowledge from one generation to another, and unlike the later *De senectute* and *De amicitia* each one portrays a meeting among three generations: the past (Scaevola in *De oratore*, M' Manilius in *De re publica*); the present (Crassus and Antonius; Scipio, Laelius, and Philus); and the future (Sulpicius and Cotta; Scaevola and Fannius).[16] One might even speak of the post-future in the presence of Cicero and his brother Quintus.[17]

Equally important for my purposes is that the two dialogues taken *together* also represent that same transmission of knowledge: The older generation of one is the younger generation of the other. Part of this emphasis on inheritance and the passage of time comes from Plato's *Republic* (the relationship between Cephalus and Polemarchus in particular), but Cicero turns this inheritance from Plato into a crucial element of his narrative of Roman intellectual life. For not only are Crassus and Scipio parallel to the Socrates of *Phaedo* in terms of their sudden deaths immediately after the dramatic date of the dialogues, but they trace the lineage of their arguments back to him, and in *De oratore* at least (possibly also in *De re publica*, but it is too fragmentary to be sure) the decline of informed oratory, the loss of the link between rhetoric and philosophy, is traced back to Socrates himself. Nothing of this kind of complexity appears in *De legibus* – but I will come back to that later, as I will to the role of Socrates in Roman intellectual history. Finally, it is worth remembering that Cicero's first and clearest definition of the *rector rei publicae*, whose existence is crucial to *De re publica*, appears not in that dialogue, but as an example of a proper definition at *De oratore* 1.211 (quoted below on page 46).

That Cicero in 55 BCE chose to take up a new form of writing, composing elaborate historical dialogues on theoretical subjects, is not something that should be taken as self-evident. In particular, his decision to make Plato his primary literary model is not at all obvious. Cicero admired Plato deeply as a writer, but he was not a Platonist in philosophy and he detested Plato's ideas about rhetoric and politics.[18] Indeed in many respects

[16] See Zetzel (1995: 5–6).

[17] Although Quintus's name is not preserved in the fragmentary preface to *De re publica*, *mihi tibique* at 1.13 makes it very likely.

[18] While Cicero obviously knew various Platonic doctrines, read (at some point in his life) most of the dialogues and the letters, and was fond of translating and adapting Plato, he is much more interested, particularly before the civil war, in Plato's prose style and his life than in his doctrines; in addition to the dialogues, his long letter to Lentulus (*Fam.* 1.9 = 20 SB) itself both cites Plato's letters and is based on the *Seventh Letter*: see McConnell (2014: 35–44). *Pace* Gildenhard (2013b), there is little reason to believe that the *perfectus orator* of Crassus in *De oratore* has much to do with the Platonic forms: He is created over time and in time, and does not exist in any ideal state, but only (and only potentially) in the real world of the past and future. DeGraff (1940) remains the fullest list of Cicero's citations of Plato.

Cicero's Platonic dialogues are not so much Platonic as anti-Platonic.[19] What good is the study of philosophy in Roman public life? *De oratore* and *De re publica* not only argue about that, they reenact it: These are dialogues *about* Plato as much as they are inspired by Plato. In *De oratore* Crassus (1.45–7) and Antonius (1.82–93) describe their visits to Athens to listen to various Greek intellectuals (philosophers and rhetoricians) talk about Plato. In *De re publica*, both Scipio and Laelius draw attention to their use of, and differences from, Plato, and in book 6 Scipio probably himself commented on the greater plausibility of his own dream than the vision of Er (6.3), and in the dream itself Scipio has the immortal soul of his grandfather Africanus implausibly prove its own immortality by using Plato's proof of the immortality of the soul from *Phaedrus*.

Cicero had no objection to the search for a moral rhetoric and politics, but he thought Plato's results ridiculous: He sides with Callicles against Socrates on the subject of the childishness of philosophy (*De or.* 2.155–6; *Rep.* 1.30; quoted above) and he rejects the *Republic* as having no relationship to normal human existence; the verb he uses (twice) is *abhorrere* (*De or.* 1.224; *Rep.* 2.21; quoted above). He has no use at all for Plato's equation of 'moral' with 'philosophically rigorous' and he refuses to worry in the manner of *Gorgias* about the technicity of rhetoric.[20] Both Crassus and Antonius in *De oratore* reject the post-Aristotelian reduction of rhetoric to technical instruction: *rhetor* and (*ars*) *rhetorica* are almost always used pejoratively; the use of *praecepta* in pretty much anything is only for beginners; Crassus refers to teachers of technical rhetoric as *homines leviter eruditi* (*De or.* 3.24), and the detailed rules of *inventio* are ridiculed.[21] Indeed, one of the most remarkable accomplishments of *De oratore* is that Cicero simultaneously cast doubt on the value of the dominant rhetorical theory of the day, associated with the second-century rhetorician Hermagoras of Temnos, and at the same time presented, in the *tekhnologia* (as he himself called it) of books 2 and 3, a complete *ars rhetorica* that is shaped according to the five Hermagorean stages of writing a speech (beginning

[19] Zoll (1962: 123) rightly says that Crassus is more an anti-Socrates than a Socrates in his preference for Gorgias and the sophists. Cicero's view of the *Gorgias* clearly favors Callicles over Socrates.

[20] In *De oratore*, the general response to the question 'Is rhetoric an *ars*?' is at best impatience with the question, but sometimes simply a shrug. See, for instance, *De or.* 1.107–9, 1.145–6, 2.30–2, 2.157.

[21] Rhetors and rhetoric: *De or.* 1.52, 1.84, 1.86, 1.87, 1.133, 2.10, 2.57, 2.62, 2.64, 3.54, 3.75, 3.122; the non-pejorative use at *De or.* 3.80 is rightly deleted by editors. *Praecepta* appear about fifty times in *De oratore*, generally with (sometimes benign) contempt. So particularly with the doctrines of *thesis* and *stasis*, as at *De or.* 2.104–5, 2.132–41, 3.70, 3.111–19. There are no comparable derogatory terms in *De re publica* (except for Scipio's scorn for Greek *magistri* at *Rep.* 1.38), perhaps because there was no elementary textbook of government comparable to the *ars rhetorica*.

with *inventio* and ending with *actio*) while completely undermining the Hermagorean strictures on those stages.[22] Given the fragmentary nature of *De re publica*, it is harder to demonstrate the same technique of simultaneous inclusion and debunking of post-Aristotelian pseudo-precision; but in book 1 Polybius is treated somewhat similarly to Hermagoras, in that the rigid ordering of the *anakuklosis* is accompanied by Scipio's statement (*Rep.* 1.65) that there is no such order.

In *De oratore*, the shallowness of standard rhetorical theory is made very plain. The dominant Hermagorean theory of rhetoric concentrated on how to conduct a legal defense; in *Rhetorica ad Herennium*, the fullest surviving *ars* of this kind, forensic *inventio* alone occupies the first two books, and the bulk of the third book is devoted to deliberative and epideictic *inventio*. How petty this was can be seen by contrasting with the narrow theory the actual kinds of speeches that Cicero cites as examples in *De oratore*. Outside Caesar Strabo's speech on humor (in which in fact many of the stories involve major political figures and fairly serious trials),[23] most references to real speeches cite either *contiones* or major political trials: the case of Hostilius Mancinus and the Numantine treaty (*De or.* 1.181–2, 1.238, 2.137); the trials of Opimius, Decius Subulo, and Carbo in the aftermath of Gaius Gracchus's murder (*De or.* 1.121, 2.106, 2.132–5, 2.165, 2.169); Antonius's defense of Norbanus (seven times: *De or.* 2.89, 2.107–9, 2.124–5, 2.164, 2.167, 2.188, 2.197–204). The only private case that is mentioned repeatedly is the so-called Causa Curiana, a case of great importance in the development of the law of equity in which Crassus defeated his opponent, Q. Mucius Scaevola himself, the greatest jurist of his time (*De or.* 1.180, 1.238, 1.242–4, 2.24, 2.140–1, 2.220).[24] In all these cases, the point is that even apparently narrow trials involve serious issues – not abstract philosophical problems, but the welfare of the Roman people and the conduct of public affairs. Cicero rejects petty Hermagorean rhetoric on the one hand by returning to emphasizing the Aristotelian ideas of ethos and pathos over the Hermagorean stress on argument alone, but more

[22] The deconstruction of Hermagorean rhetoric is particularly clear in Antonius's account of *inventio* (*De or.* 2.99–216) because he stays closer to the basic structure than does Crassus's version of *elocutio*. For further explanation, see the valuable introduction to Antonius's account in *LP* 3:20–4 and to Hellenistic rhetorical theory in May and Wisse (2001: 26–38).

[23] *De or.* 2.216–90. Of the nineteen speeches mentioned by Caesar Strabo, only seven do not involve a participant in *De oratore* itself, and five of those involve either Crassus's great opponent Philippus or the *princeps senatus* Scaurus.

[24] Cicero mentions the case as early as *De inventione* 2.122. On the case, see Vaughn (1985) and references in Alexander (1990: #93). I have discussed the speeches and trials mentioned in *De oratore* in greater detail in Zetzel (2022: 49–73).

significantly by looking toward the real world of Roman oratory and the large issues of civic life.

I have so far omitted one of the most important trials described in *De oratore*, the one that in fact makes a close and explicit link between philosophy, specifically Platonic philosophy, and Roman public life. That is the trial of P. Rutilius Rufus, who went to the province of Asia sometime in the 90s as legate to the proconsul Q. Mucius Scaevola Pontifex. Their main activity in Asia was to reform the legal code of the province; Scaevola, a great jurist, produced a legal system that Cicero was proud to employ when he reluctantly went to govern Cilicia in 51, but which at the time produced significant anger from the *equites* whose extortionate activities as *publicani* the new code curtailed. The result was the prosecution of Rutilius himself for provincial extortion (*repetundae*) sometime between 94 and 92; he was convicted by the equestrian jury and went into exile – in the province which he had allegedly so mistreated.[25]

Rutilius's trial was famous, and the description of it given by Antonius in *De oratore* is itself memorable. Rutilius's nephew Cotta, although a promising orator, was not permitted by uncle Rutilius to say very much; instead, Rutilius chose to defend himself, and as a Stoic he did so philosophically – and badly (*De or.* 1.230–1):

> Now we have lost so great a man because his case was argued as if the trial were taking place in Plato's make-believe republic. None of the lawyers groaned, nobody shouted, no one felt pain, nobody complained, nobody called on the *res publica*, nobody asked for mercy. In brief: nobody stamped his foot in that trial – I think they were afraid of being denounced to the Stoics. A Roman ex-consul imitated Socrates of old, who, even though he was the wisest of them all and had lived the most holy life possible, spoke in his own defense in a capital case as if he were not a suppliant on trial but the lord and master of the jury.[26]

Antonius goes on to summarize with some detail the final stages of Socrates's trial, as told by Plato in the *Apology*. Rutilius's behavior is

[25] The date of Scaevola's proconsulate (and thus Rutilius's legateship) is disputed. Kallet-Marx (1990) has shown convincingly that Rutilius's trial cannot be dated securely to 92, and his argument for an earlier date is convincing; his account of the trial and its political context is the most satisfying, but the earlier treatment by Badian (1956) is still well worth reading. For other references to the trial see Alexander (1990: #94).

[26] *nunc talis vir amissus est, dum causa ita dicitur, ut si in illa commenticia Platonis civitate res ageretur. nemo ingemuit, nemo inclamavit patronorum, nihil cuiquam doluit, nemo est questus, nemo rem publicam imploravit, nemo supplicavit; quid multa? pedem nemo in illo iudicio supplosit, credo, ne Stoicis renuntiaretur. imitatus est homo Romanus et consularis veterem illum Socratem, qui, cum omnium sapientissimus esset sanctissimeque vixisset, ita in iudicio capitis pro se ipse dixit, ut non supplex aut reus, sed magister aut dominus videretur esse iudicum.*

doubly criticized in terms of two Platonic texts: In terms of the *Apology*, Rutilius is a Roman Socrates, unjustly convicted simply through his failure to take the requirements of forensic oratory seriously; Antonius mentions the story that Lysias offered to write Socrates a speech, but Socrates was too pig-headed to accept it. The other text is of course the *Republic* – the trial took place as if *in illa commenticia Platonis civitate*, a place we know, as Antonius has told us only a few minutes earlier, was completely alien to normal civic life.[27]

The trial of Rutilius is one of the important passages where Plato and Rome intersect, and it is very close to another occasion of misplaced philosophizing: In 60 BCE, when the Stoic Cato was being more than usually intransigent in the politics of compromise, Cicero fumed and wrote to Atticus complaining (*Att.* 2.1.8 = 21 SB):

> You couldn't be more fond of Cato than I am, but with the best of intentions and the greatest sincerity he sometimes does harm to the commonwealth: he gives his opinion as if he were in Plato's *Republic*, not Romulus's dungheap.[28]

As Antonius says, philosophy belongs not in the city, but in the library of a country house, where it can be employed in elegant and learned conversations like those reported in *De oratore* and *De re publica*. It is not merely useless in political life, it is dangerous; that is why, in *De re publica* (4.5), Plato is expelled from Cicero's commonwealth the way Plato expelled Homer from the Kallipolis.

In the story Crassus tells in book 3 of *De oratore* about the history of rhetoric and philosophy, Socrates marks a turning point – and not for the better. According to Crassus, once upon a time 'philosophy' meant the unity of speech and thought and the combination of political and moral wisdom (*De or.* 3.60–1).[29] That was when the Seven Sages roamed the earth. Then comes Socrates, who abandoned political and moral wisdom (and speech) in favor of mere philosophy. Crassus's subsequent history of post-Socratic philosophy brilliantly turns the usual account of the relationship of philosophy and rhetoric (which we have had, at least in parts, several times in *De oratore* already) on its head: It is a history of philosophy in terms of its utility for public speech – philosophy is only the means, and

[27] Quoted above on page 38.

[28] *nam Catonem nostrum non tu amas plus quam ego; sed tamen ille optimo animo utens et summa fide nocet interdum rei publicae; dicit enim tamquam in Platonis* πολιτείᾳ, *non tamquam in Romuli faece, sententiam.*

[29] On this topic see also Zetzel (2003: 129–34).

oratory is the end.[30] What good is philosophy, the preface to *De re publica* asks (1.4–11), if it cannot save your country?

Oratory, in *De oratore*, is the master art to which philosophy ought to be subservient. And what matters about oratory, in Cicero's account, is not the technical niceties of rhetoric, which any fool (perhaps not a complete fool) can learn from watching a good orator, but its role in public life. Civil trials sometimes matter; civic oratory always does. It is great and grand and it is, more or less, the same thing as what *De re publica* presents as statesmanship, the ability to act – in Cicero's terms, to speak – effectively and prudently in public affairs. Oratory and statesmanship, in both *De oratore* and *De re publica*, are inseparable. The dialogue of *De oratore* begins with Crassus's exhortation to the young Sulpicius and Cotta to work toward excellence, extolling the importance of speech (and speeches) in the founding and maintenance of states (*De or.* 1.30–4). Similarly, the account of Romulus in *De re publica* 2 turns a primitive shepherd into a statesman (*Rep.* 2.5, 2.11, 2.15–16; he is not, to be sure, an orator). In both cases the idealistic picture of the perfect statesman is rejected, in the first case by Scaevola (*De or.* 1.35–44) and in the second by Laelius (*Rep.* 2.21–2); but even though Cicero (along with his characters) recognizes it as unrealistic, it is still the model he uses to demolish the narrow views of both oratory and statesmanship that he attacks in the two dialogues.

Both *De oratore* (3.137) and *De re publica* (1.12, in Cicero's preface) look back to the Seven *sapientes*, and there are references in both to that ideal group of early sages who embodied the unity of speech, wisdom, and political action, whether one calls it *philosophia* or *sapientia*. They may not have known technical philosophy or technical rhetoric, but in these dialogues at least, that is hardly a criticism. What followed was Socratic decline, and the blinkered narrowness of the post-Socratic schools is an indication of an age when mere knowledge replaces wisdom. But was this only in Greece? In fact, Cicero develops parallel stories about Greek and Roman wisdom: In the fragmentary preface to *De re publica* 3, there is a reference to Manius Curius as someone with natural understanding;[31] almost certainly, the lacuna that follows conceals a group of other Roman sages, like those given by Crassus at *De oratore* 3.56, where the old Romans

[30] See particularly *De or.* 3.74–81, with the conclusion that only Peripatetics and skeptics have a useful approach to speaking.

[31] *Rep.* 3.6. For reconstruction of the preface to book 3, correcting Powell's arrangement of the fragments, see Zetzel (2017b).

Coruncanius, Fabricius, Cato, and Scipio are equated with Lycurgus, Pittacus, and Solon:

> This capacity for thought and expression and this power of speaking is what the old Greeks called *sapientia*; that's the origin of people like Lycurgus, Pittacus, and Solon, and likewise among us people like Coruncanius, Fabricius, Cato, and Scipio. They may not have been as educated, but they had a similar force of mind and character.[32]

Crassus's claim about the merits of the Twelve Tables is famous (*De or.* 1.195):

> People can snarl as much as they like, but I'll say what I think: that one little booklet of the Twelve Tables, if you look at the sources and basis of the laws, surpasses the libraries of all the philosophers, in its weight of authority and richness of utility.[33]

He goes on to say (*De or.* 1.197) that the Greek laws of Solon and Lycurgus and Draco look ridiculous in comparison to Roman law and, more broadly, that he puts the *prudentia* of the Romans ahead of everyone else, particularly the Greeks. This is not just Crassus waxing hyperbolic; compare Cicero himself, in the preface to *De oratore* (1.16):

> A great many things allow us to decide that our people have much greater genius than everyone else in the whole world.[34]

Whether Cicero really believes it (and as a Latinist, of course, I myself do) or it is rhetorical hyperbole does not matter: It is the consistent point of view of these dialogues, and three aspects of passages like these are significant. One, which I have discussed before, is Cicero's view that Greek learning is OK – but only in its place. For a Roman statesman to play Socrates, or to let his training in Stoicism affect his public performance, is simply wrong. That is true of the younger Cato, as it is of Scipio Aemilianus's nephew Tubero, who was so Stoically cheap in organizing Scipio's funeral that he was not elected praetor, and it is true above all of Rutilius.[35]

[32] *hanc, inquam, cogitandi pronuntiandique rationem vimque dicendi veteres Graeci sapientiam nominabant; hinc illi Lycurgi, hinc Pittaci, hinc Solones atque ab hac similitudine Coruncanii nostri, Fabricii, Catones, Scipiones fuerunt, non tam fortasse docti, sed impetu mentis simili et voluntate.*

[33] *fremant omnes licet, dicam quod sentio: bibliothecas me hercule omnium philosophorum unus mihi videtur xii tabularum libellus, si quis legum fontis et capita viderit, et auctoritatis pondere et utilitatis ubertate superare.*

[34] *ingenia vero, ut multis rebus possumus iudicare, nostrorum hominum multum ceteris hominibus omnum gentium praestiterunt.*

[35] Zetzel (2003). For Aelius Tubero, see *Pro Murena* 75–6.

The second aspect is that both *De oratore* and *De re publica* imagine two streams of wisdom, one Roman, one Greek. If the early Romans were not as sophisticated as the Greeks, their wisdom was just as great: They were eloquent, in their own way; they were statesmen to match the Greeks; and their laws did a whole lot better in establishing civic values than any book of Greek philosophy. In one, unfortunately fragmentary passage of the preface to *De re publica* 3, Cicero suggests that this kind of natural wisdom can be found everywhere: There are lawgivers from as far afield as Assyria and Carthage, not to mention all the states of non-Roman Italy.[36] Greek learning can embellish the wisdom of the early sages, but it cannot improve it.

The third aspect is one that is obvious, but crucial. What Cicero is talking about in *De oratore* is not rhetorical theory, which he largely rejects, but the flesh-and-blood orator – the one who moves the crowd; who employs rhetorical techniques when useful; who takes moral responsibility for public action. And what he is talking about in *De re publica*, despite the title, is not political or constitutional theory, but the statesman.[37] And who is he? Antonius's definition of the statesman in *De oratore* is relevant to both dialogues (*De or.* 1.211):

> But if we were looking for who the person is who brought his experience and knowledge and zeal to the regulating of the commonwealth, then the man who understands how to create and promote the public interest and does so – that person should be considered the guide and author of public policy; and I would name as examples Publius Lentulus the *princeps senatus* and Tiberius Gracchus the elder and Quintus Metellus and Publius Africanus and Gaius Laelius.[38]

There are repeated, but sometimes fragmentary and often obscure, accounts in *De re publica* of statesmanship and its origin; it is, ultimately, a divine gift of nature. But what matters is that all that is good in Roman civic life comes not from philosophical systems, but from individual ability and commitment to the community. Cicero is not writing about rhetoric and politics, but about the orator and the *optimus civis* in the best

[36] *Rep.* 3.7. For the order of the fragments, see Zetzel (2017b).

[37] When writing *De re publica*, Cicero first refers to it as *politika* (*QFr.* 2.13.1 = 17 SB), *de re publica disputatio* (*Att.* 4.16.2 = 89 SB), and then *de optimo statu civitatis et de optimo cive* (*QFr.* 3.5.1 = 25 SB). Presumably he chose the title we have in order to connect his work to Plato's.

[38] *sin autem quaereremus quis esset is, qui ad rem publicam moderandam usum et scientiam et studium suum contulisset, definirem hoc modo: qui quibus rebus utilitas rei publicae pareretur <et> augeretur teneret iisque uteretur, hunc rei publicae rectorem et consilii publici auctorem esse habendum; praedicaremque P. Lentulum principem illum et Tiberium Gracchum patrem et Q. Metellum et P. Africanum et C. Laelium.*

res publica: In other words, he is writing about the two most important public roles which he himself had performed in better days.

'Better days', moreover, is central to these two dialogues, which are decidedly not cheerful. Just as they extol the intrinsic wisdom of early Romans, so they mourn Rome's moral decline. This is not just generic Roman gloom, but refers to one specific set of events. Both the first and the last historical exempla in *De oratore* (after Romulus and Numa) involve the Gracchi. In book 1, Scaevola uses comparison of the brothers to their father to show that eloquence is not necessarily a good thing and laments the damage the sons have done (*De or.* 1.38):

> But his sons – eloquent, prepared as speakers with all the weapons of nature and of education—received the state in superb condition, either from their father's wisdom or the military skills of their ancestors, but used this wonderful method of governing states, as you call eloquence, to destroy the commonwealth.[39]

At the end of book 3, when Crassus is talking about Tiberius Gracchus's use of a slave with a pitch-pipe to keep his voice at the right level, Crassus sadly comments (*De or.* 3.226):

> … I can only regret that these men made the mistake of taking the dangerous political course that they did. Though such a pattern is now being woven, such a way of living is being encouraged in our community and held up as an example to future generations, that we now wish we had citizens like those whom our fathers found intolerable.[40]

Crassus is looking back to what Scaevola had said about the Gracchi in book 1, drawing the two passages (and the whole work) together. Crassus died a week later, and Scipio died, at least so Cicero thought, because of his opposition to the agrarian laws of Tiberius Gracchus, a few days after the dramatic date of *De re publica*. In their day, and even more when Cicero wrote, there was no more room for moral oratory or statesmanship and, as he put it in the last preface of *De re publica* (5.2), we can barely perceive the outlines of the *res publica* and its colors have completely faded.

Let me turn, at last but not at length, to the third member of my Platonic triad, *De legibus*. How does it fit? In the first place, what is its relationship

[39] *at vero eius filii diserti et omnibus vel naturae vel doctrinae praesidiis ad dicendum parati, cum civitatem vel paterno consilio vel avitis armis florentissimam accepissent, ista praeclara gubernatrice, ut ais, civitatum eloquentia rem publicam dissipaverunt.*

[40] *… doleo quidem illos viros in eam fraudem in re publica esse delapsos; quamquam ea tela texitur et ea in civitate ratio vivendi posteritati ostenditur, ut eorum civium, quos nostri patres non tulerunt, iam similis habere cupiamus.*

to *De oratore*? There are some obvious parallels (the related discussions of historiography are the clearest), and like the other two dialogues, *De legibus* alludes to the *Phaedrus* – but it does so through *De oratore*. *De legibus* begins with another tree, Marius's oak, immortalized not by Plato, but by Cicero himself; to emphasize the parallel with the *Phaedrus*, he includes from Plato's dialogue a reference to the fictional Athenian location from which Boreas snatched Orithyia (*Leg.* 1.1–3). But in place of Scaevola the Augur, who identifies the plane tree in *De oratore* as Platonic, here Cicero's *Marius* is praised by a quotation from the otherwise unknown Scaevola the poet. *De legibus* looks back to *De oratore* as itself a classic text that can be the object of allusion.[41]

As for *De re publica*, Cicero clearly constructs a deliberate parallelism between his two dialogues and Plato's *Republic* and *Laws*: one past, with historical speakers; the other present, with the author himself (at least in Cicero's understanding) as protagonist. Like the *Laws*, *De legibus* is aware of its predecessor: There are many references backward. But the only thing in *De re publica* that even remotely suggests the future *De legibus* is the use of the word *legibus* twice. The first occurrence is at *Rep.* 2.64, when Tubero complains that Scipio has given a panegyric of Rome rather than explaining *ipsam rem publicam quam laudas, qua disciplina, quibus moribus aut legibus constituere vel conservare possimus* ('by what training or customs or laws we can establish or preserve that very commonwealth which you praise'). This sentence is clearly meant to anticipate the contents of the next two books, particularly book 4, where Cicero precedes his analysis of Roman society by saying that its virtues are preserved in part *moribus* and in part *legibus* (*Rep.* 4.3) – and the account that follows refers to the laws of the Twelve Tables as well as to the censorship, education, and other social institutions not regulated by law. There is thus no need to think that the references here are footnotes saying 'see *De legibus* (forthcoming)': *De re publica* reveals no foreknowledge of *De legibus*.[42] Instead, as Jed Atkins has shown, *De re publica* already includes important elements from the constitutional theory of Plato's *Laws*: It does not require a separate adaptation of it.[43] *De legibus*, in turn, consistently views *De re publica* as a written text

[41] On the relationship of *De legibus* to *De oratore*, see Görler (1988).

[42] They are taken to anticipate *De legibus* by J. W. Atkins (2013: 155–6), who points to the fact that *De re publica* book 4 concentrates (in the extant fragments) on institutions more than on laws; however, that is because Cicero believes that institutions are more effective than laws, not because he necessarily planned to write a law code. On the relationship between laws and institutions in book 4, see Zetzel (2001: 93–5).

[43] J. W. Atkins (2013), from which I have learned a great deal, despite some disagreements. For references to *De re publica* as a written text (*Leg.* 1.20, 2.23, 3.4, 3.13, 3.38) see J. W. Atkins (2013: 158–9).

that Quintus and Atticus have read, and one that has been available for a while. All this can be explained as a consequence of Cicero's imitation of the Platonic relationship; but it may just possibly reflect historical reality.

De legibus is incomplete – and we do not know if it ever was completed. Peter Schmidt showed that there is no firm evidence *against* dating it to the late 50s (and that dating is widely accepted these days), but his arguments make it very clear that there is no firm evidence *for* that dating either.[44] That does not mean that Cicero did not write some things that became part of *De legibus* while he was revising *De re publica*; I am inclined to think that he did. But there are also arguments for a later dating, and what is most important, in terms of simple chronology, is that Cicero never refers to *De legibus* elsewhere. The catalogue of his writings that Cicero gives at *De divinatione* 2.1–4 is thorough, and it includes at least one work, *De fato*, which was not yet complete. If he had completed any significant part of *De legibus* to his own satisfaction before April 44, it was not very much, and certainly not the five books that we know existed once. We simply cannot assume that we know when Cicero wrote the portions of *De legibus* that we have; we should not assume that *De legibus* can help us fill in what is lost of *De re publica*. What is more, the passages in *De legibus* in which the speakers refer to *De re publica* as a written text create a very peculiar chronological effect. The dramatic date of *De legibus* is clearly in the late 50s, but *De re publica* was not circulated until the spring of 51; when did the participants have a chance to read it?

Even allowing for incompleteness, there are two large gaps in the argument of *De legibus*. One is familiar: There is very little effort made to link the natural law of book 1 to the positive laws of books 2 and 3. Not just the philosophical issue of whether the law code is, or accurately represents, the natural law, but the practical issue of how the natural law becomes instantiated in the law code.[45] Furthermore, who is the lawgiver? In books 2 and 3, it is Marcus himself, and the mock-assembly that must approve the laws consists of the three participants in the dialogue. That is a remarkably feeble contrivance for dealing with a genuine problem: how does the need for an imposed ideal code mesh with the workings of a constitutional republic? Even Cicero, not exactly a modest man, was not vain enough to cast himself as the person of perfect wisdom, bringing his self-knowledge

[44] P. L. Schmidt (1969).

[45] I pass very rapidly over a complicated issue that has been much discussed. See, with ample bibliography, the discussion of J. W. Atkins (2013: 155–208) and more recently Schofield (2017a: 57–61). I remain unconvinced (see also Zetzel, 2017c: xxii–xxvi) that any satisfactory solution is possible, although Atkins's is more plausible than most.

and cosmic awareness down to the mere mortals of Rome. And that is the other large gap in *De legibus*: Given the emphasis in both *De oratore* and *De re publica* on the role of the individual statesman and the need for the practical wisdom of experienced leaders to guide the government, it is fairly remarkable that the *rector* has entirely vanished from *De legibus*, replaced by a set of rules and regulations. Where are the statesmen of yesteryear?

This is a simplification of a complicated problem, but it seems to me that the contorted arguments used by modern scholars to try to solve it are themselves a reflection of what we already knew, that *De legibus* is incomplete and was almost certainly never completed; what follows from that is that Cicero himself may never have been satisfied with the argument – and that we should therefore not expect it to work as well as we might like. Still, the problem of the statesman seems to me a very real one, and it has not been adequately addressed. There are of course wise individuals in *De legibus* book 1: Reason guides each of us toward the knowledge of virtue and the natural law which is prior to the petty concerns of positive law; it is reason, or right reason, that makes us citizens of the cosmopolis. But that seems to have remarkably little effect on the real world. After the endless discussion of reason and the good in book 1, incorporating far more technical Academic and Stoic philosophy than appears anywhere in *De oratore* or *De re publica*, Quintus with a degree of justifiable impatience says that while he does not expect a discussion of real statute law, *te existimo cum populis tum etiam singulis hodierno sermone leges vivendi et disciplinam daturum* ('I expect you to give in today's discussion the laws and the discipline of life both for peoples and for individuals', *Leg.* 1.57). No such luck. Marcus instead launches into a panegyric of wisdom, moving from the wisdom of the Delphic command to know oneself to the person who knows himself, recognizes his divine wisdom, and on and on. Once this paragon understands the workings of the entire cosmos and envisages the cosmopolis, only then, when his gaze slowly descends to the civil society of which he is a part, does it dawn on him that he has to use comprehensible language (*Leg.* 1.62):

> What is more, he will fortify all these things as if by a fence through the method of argument, the knowledge of judging true and false, the science of understanding logical consequences and contradictions. And when he realizes that he was born for civil society, he will realize that he must use not just that refined type of argument, but also a more expansive style of speaking, through which to guide peoples, to establish laws…[46]

[46] *atque haec omnia, quasi saepimento aliquo, vallabit disserendi ratione, veri et falsi iudicandi scientia, et arte quadam intellegendi quid quamque rem sequatur et quid sit cuique contrarium. cumque se ad civilem societatem natum senserit, non solum illa subtili disputatione sibi utendum putabit, sed etiam fusa latius perpetua oratione, qua regat populos, qua stabiliat leges…*

And just as Quintus was impatient before Marcus uttered this eloquent and vague statement about wisdom and law, so Atticus after it asks *sed quorsus hoc pertinet?* (*Leg.* 1.63: 'But where does it lead?') – or, to be a little cruder than Atticus ever is, 'So what?' Cicero's grudging admission in one phrase that the lawgiver will have to communicate persuasively with his people in order to establish his law code – 'not just that refined type of argument, but also a more expansive style of speaking' – combined with the whole top-down view of law and reason in which it is embedded, essentially throws out the entire argument and the real Roman world of the other two dialogues, in which the orator and the statesman emerge from *usus* and *exercitatio*, daily interaction with people, laws, and language; they gain wisdom from tradition and from their elders. In the Rome of Crassus and Scipio, philosophical learning is just the gilt on the gingerbread; in *De legibus*, it is the gingerbread. *De legibus* is formally Cicero's most Platonic dialogue; that may be why it is a failure, and why, in all probability, it was never finished.

I conclude on a more philosophical, if not more positive, note. In his important recent book *Crisis and Constitutionalism*, Benjamin Straumann has shown that in the late Republic and in times of political crisis in general, there is a strong turn toward seeking second-order, or constitutional, arguments for political behavior.[47] One needs some kind of template against which to judge legality or morality when such things have come into question. And it seems to me that a crucial difference between *De re publica* and *De legibus* is precisely the turn away from reliance on individual morality toward reliance on law and structure. The statesman, the *rector* or *princeps*, is gone; the sense that respect for *mos maiorum*, for tradition, custom, and institutions as well as for people who exhibit that respect is enough to maintain the commonwealth, is dead. We can only hope that some fundamental law, in this case the natural law and right reason, will guide us and will help us survive the moral and political chaos that engulfs us. That, as Cicero knew, was a desperate hope. But what else do we have?

[47] Straumann (2016).

CHAPTER 3

Mos dialogorum
Scepticism and Fiction in Cicero's Academica

Georgina White

> *puto fore, ut, cum legeris, mirere nos id locutos esse inter nos, quod numquam locuti sumus; sed nosti morem dialogorum.*
>
> I think that when you read it you will be amazed that we have said to each other things that we have never said; but you know the convention of dialogues.
>
> Cic. *Fam.* 9.8 = 254 SB (Dedicatory Letter to the 3rd Version of the *Academica*)

3.1 Introduction

In the dedicatory letter of the *Academica*, Cicero has the opportunity to introduce his text to its primary audience: its dedicatee, Varro. This letter, as we might expect, alludes to the epistemological content of the work, joking that it bears the immodest countenance of the 'less mature' (*adulescentior*) New Academy. It also, however, perhaps more surprisingly, emphasises the literary form of this text. The *Academica*, the letter notes, takes the form of a conversation (*sermo*) between its characters and, in doing so, follows the convention of dialogues (*mos dialogorum*). Moreover, it is the kind of dialogue designed to produce wonder in its reader by presenting a dramatised account of an imagined conversation that never took place ('you will be amazed that we have said to each other things that we have never said'). The text, then, is presented by its author as a work of literary fiction, and one that is intended to be engaged with as such by its reader.

Cicero's focus in this letter on the status of the *Academica* as a dialogue that dramatises for its reader a fictional conversation between its characters is at odds with many contemporary treatments of Cicero's philosophical dialogues, which tend to see the dramatic elements of the text as being of little importance in comparison to the expository content

of the work.[1] Malcolm Schofield, who gives an otherwise sympathetic analysis of Ciceronian dialogue, argues that, although Cicero relies on dialogue form to achieve one end – namely, the balanced presentation of opposing philosophical perspectives – he has little interest in replicating the dramatic elements found in, for example, Plato's dialogues. Instead, Schofield argues, Cicero's dialogues are characterised by the 'negation of the dramatic in the interests of the exposition of systems', and so we would be well advised to follow Paul MacKendrick in considering the Roman philosopher's works to be a new genre of 'dialogue-treatise' rather than dramatic dialogues in the Platonic mould.[2] This view that, for Cicero, the dramatic potential of dialogue is strictly subordinate to its suitability for the even-handed presentation of competing philosophical systems is extended to the *Academica*. Charles Brittain, for example, argues that 'the primary purpose of his use of the dialogue form is thus to allow Cicero to present a rather complicated series of philosophical debates stretching over 250 years'.[3]

There is, of course, little doubt that Cicero saw the ability to present competing arguments as a significant advantage of dialogue form: as he tells us in the *De fato* (1), his method of presenting 'an uninterrupted speech on both sides' (*in utramque partem perpetua oratio*) allows his reader to decide which argument is more plausible for himself. But Cicero's emphasis in the *Academica*'s dedicatory letter on the ability of dialogue to present fictional encounters to its reader suggests that there might be other factors motivating his choice of form in this particular text. As we shall see, the *Academica* seems to have been written with particular attention to dramatic features such as conversational style, sense of place, and characterisation. In fact, these elements seem to have been so important to Cicero's project that he rewrote the dialogue in order to improve its dramatic frame, retaining the same expository content but changing the dialogue's speakers and setting. This chapter, then, will consider why Cicero might have taken such care over the dramatic aspects of his dialogue in the *Academica*. The suggestion that will be made here is that the dialogue form of the *Academica* helps to reinforce the epistemological message of the text.

[1] I follow Schofield (2008) here in using the term 'dramatic' to describe those elements of the text that contribute to the vividness of the dialogue frame, and, consequently, the reader's sense that the action of the dialogue represents a realistic exchange in time and place.

[2] Schofield (2008: 66), following MacKendrick (1989: 25).

[3] Brittain (2006: xii–xiii).

By creating a dramatically convincing account of a conversation which, as the dedicatory letter points out, is entirely fictional, Cicero provides an example of the difficulties inherent in differentiating between the true and the false that motivate his sceptical position in this work. On this reading, the form of the dialogue itself serves to reinforce the Academic claim that we have access to no clear criterion of truth: the best we can do is to judge something to be 'similar to the truth' (*veri simile*).[4]

To support this argument, as well as looking at the evidence of the text itself, this chapter will consider how Cicero's concerns about the persuasiveness of this fictional account emerge from his letters to Atticus, and how the ideas of 'evidentness' (*enargeia* in Greek; *evidentia* or *perspicuitas* in Cicero's Latin) in Antiochian/Stoic epistemology relate to those of Hellenistic rhetorical theory.[5] As we shall see, Cicero, a Roman statesman trained in Hellenistic rhetoric as well as philosophy, is well aware both of rhetoric's claim that an audience can be persuaded of the veracity of a fictional narrative by means of the 'evidentness' of an account, and of the Stoic/Antiochian epistemological claim that 'evidentness' acts as a guarantor of truth. The contention of this paper will be that, in Cicero's view, no impression has the kind of self-verifying, epistemological 'evidentness' that is claimed by the Stoic/Antiochians; instead, if an impression does possess the quality of 'evidentness' it must be something closer to the rhetorical idea of 'evidentness', in that it can be found in true and false impressions alike. So, then, the fictional, yet 'evident', speeches that Cicero presents to us in the *Academica* can provide us with an extended counterexample to the Stoic/Antiochian claim that an 'evident' impression is necessarily true.

3.2 The Two Editions of the Dialogue

The first point to consider is the unusual history of the work's composition. The text, as we have it, is in a rather confused state, in part because Cicero engaged in a comprehensive rewriting when the work was already

[4] See e.g. Cic. *Luc.* 128.

[5] 'Evidentness' will be used as a translation for these difficult terms throughout this chapter. The chosen term is, admittedly, uncommon, but this reflects the fact that *enargeia* and its Latin equivalents are used in two distinct senses that are not neatly united in a single, common English term: on the one hand, these terms are used to articulate the rhetorical idea of clarity and vividness of description and, on the other, the epistemological idea of the high level of distinctness that is possessed by impressions that seem to demand our assent. Other possibilities are 'perspicuity' (e.g. Brittain, 2006), 'vividness' (e.g. Innes, 1995), or 'evidence' (Görler, 1997).

completed.[6] We currently possess sections of two Ciceronian books depicting discussions of Hellenistic epistemology by Roman statesmen, and in which the character 'Cicero' takes on the role of the defender of Academic scepticism. Each of these sections, however, originates from a different version of the work, with a different dramatic setting and cast of characters. Before we can discuss the contents of the text more fully, then, we need to consider how these two books fit together, and whether the changes that Cicero made to the original text can tell us anything about his priorities and aims in composing the *Academica*. As we shall see, Cicero's letters to Atticus show us that his revision of the text was motivated not by any concerns about its treatment of philosophical exposition, but by a desire to make its dialogue frame as convincing as possible.

The history of the composition of the *Academica* is dealt with in detail by Miriam Griffin.[7] Griffin marshals the evidence for three different versions of the dialogue (two of which – the first and third – were sent to Atticus for publication, and so can rightly be called editions). Each of these versions seems to have covered the same philosophical content, but differed in its choice of character and setting. The first version of the text was written in early 45 BCE, had a dramatic setting of some time in the late 60s, and was comprised of two books, known as the *Catulus* and the *Lucullus* respectively after the main speaker in each.[8] This original version was sent to Atticus, who seems to have begun the process of publication. Of this original edition, only the second book has survived, and this is commonly referred to either using its original name, *Lucullus*, or as *Academica* II. On 26 June 45 BCE, however, Cicero wrote to Atticus saying that he had rewritten the dialogue, which he now calls the 'Academic composition' (Ἀκαδημικὴ σύνταξις).[9] In this second version, which was never sent to his friend for publication, the dramatic date seems to have been moved closer to the date of composition and the characters changed. The philosophical content of the dialogue has been retained – Cicero says

[6] Of these two editions, the earlier version (*Academica Priora*) has survived only in part, as its second book, the *Lucullus*, was transmitted as part of the Leiden corpus. Of the revised version (*Academica Posteriora*), only part of the first book was transmitted, appended to the *De finibus*. For further information on the transmission of the two versions of the text, see Rouse in Reynolds (1983: 112–15 [on the *Academica Posteriora*] and 124–8 [on the *Academica Priora*]).

[7] Griffin (1997: esp. 14–16); cf. Brittain (2006: ix–xix).

[8] *Att.* 13.32 = 305 SB.

[9] *Att.* 13.16 = 323 SB; cf. also *Att.* 13.12 (= 320 SB) for the use of the term Ἀκαδημική (sc. σύνταξις) to refer to the older edition of the book. This seems to speak against Griffin's (1997: 33) claim that there was no collective term for both books of the first version of the text. Retrospectively, at least, they seem to have been referred to collectively as Ἀκαδημικὴ σύνταξις.

Table 3.1 *Summary of versions of the* Academica

	1st version 1st edition	2nd version	3rd version 2nd edition
Dramatic date	Late 60s (after Cicero's consulship in 63 BCE)	Some time before Cato's death in 46	c. 45 BCE
Characters	Cicero, Lucullus, Catulus, Hortensius etc.	Brutus, Cato	Cicero, Varro, Atticus
Extant sections (excluding short frags)	2nd book (*Lucullus*)		Beginning of 1st book; dedicatory letter

he uses 'the very same speeches' (*eosdem illos sermones*) – but Brutus and (the recently deceased) Cato have been chosen as the new speakers. In this same letter, however, Cicero says that he has already adopted Atticus's suggestion of rewriting the dialogue to produce a *third* version, in which the speakers will be himself, Atticus, and Varro. The dramatic date for this third version, which was eventually sent to Atticus for publication and so constitutes the second edition of the dialogue, appears to be near-contemporaneous with the date of revision in early summer 45 BCE.[10] For this third version, Cicero tells Atticus (*Att.* 13.13 = 321 SB), he has 'cut out many things' (*multa detracta*) and transferred the contents from the original two books into four books (*duobus libris contuli in quattuor*). The opening of the first book of this second edition has come down to us, and is known as *Academica* I.

Although we have evidence of these three distinct versions (summarised in Table 3.1), Cicero consistently talks about each of them as different versions of the same text. The same content is 'transferred over' (*conferre*) from one version to the next, even if the account is somewhat pared down in the process (*Att.* 13.13 = 321 SB). In this chapter, then, it will be assumed that any philosophical content that is extant in only one of our versions would likely have been reproduced in a lost section of the others. Arguments from the *Lucullus* will be used to reconstruct the missing content of the

[10] At *Acad.* 1.1 the discussion is described as having taken place *nuper* ('recently').

second edition of the *Academica*, and vice versa. It will also be assumed that, as Cicero viewed each version as part of the same project, he had similar aims in each edition. Consequently, any changes made to create a more convincing dramatic frame for this work are taken to be intended as improvements upon what was already a key element of the project.[11]

The importance that Cicero attributed to the dramatic elements of the dialogue is apparent from his discussion of his motivations for revising this work in his letters to Atticus. Throughout these letters, two themes emerge that explain Cicero's decision to change the dramatic setting. The first is social obligation: Varro has dedicated a treatise to Cicero, so Cicero wishes to pay him back 'in the same measure and even better' by adding Varro as a character to his dialogue.[12] But the decision to add Varro as a character only comes *after* Cicero has already changed the dramatic setting of the dialogue, moving it from the late 60s to the 50s/early 40s, and changing the speakers from the elder statesmen, Lucullus, Catulus, and Hortensius, to Cicero's contemporaries, Cato and Brutus (*Att.* 13.16= 323 SB). The first change of dramatic date seems, instead, to have been motivated by Cicero's concerns about the credibility of his dialogue in its original form. He tells Atticus, variously, that he has rewritten his dialogue because: (1) his original characters 'being in no respect men of learning are made to speak with a subtlety beyond them' (*nullo modo philologi nimis acute loquuntur*, *Att*. 13.12 = 320 SB); (2) 'there seemed a lack of appropriateness, because those men were notoriously – I don't say ill-educated, but unversed in those particular subjects' (*deinde quia* παρὰ τὸ πρέπον *videbatur, quod erat hominibus nota non illa quidem* ἀπαιδευσία *sed in iis rebus* ἀτριψία, *Att*. 13.16 = 323 SB); and (3) 'it was quite inappropriate to their characters [i.e. those of Catulus, Lucullus, and Hortensius]: for it was more learned than anything they would appear likely to have ever dreamed of' (*sane in personas non cadebant; errant enim* λογικώτερα *quam ut illi de iis somniasse umquam viderentur*, *Att*. 13.19 = 326 SB). The primary motivation for the changes made to the dialogue, then, and one which was present even before the issue of a literary repayment to Varro was raised, is that the original version failed to meet the author's goal of producing a convincing account of a plausible conversation – the historical figures initially selected for this discussion simply were not credible in the roles in which they had been cast.

[11] The validity of this assumption will be confirmed in Section 3.5, when we examine more closely the care that Cicero gave to the crafting of the dramatic frame of the first edition of the dialogue.

[12] *Att*. 13.12 = 320 SB: αὐτῷ τῷ μέτρῳ καὶ λώϊον (a quotation Cicero takes from Hesiod, *Works and Days*, line 350).

Cicero's letters to Atticus, then, suggest that the production of a credible dramatic dialogue was an essential part of Cicero's literary project in constructing this text. Indeed, this feature was so important that he rewrote the work in order to meet this goal. Interestingly, the production of a plausible dramatic frame seems to have been a consideration that Cicero prioritised in this dialogue in particular. In the *De senectute*, in contrast, he selects Cato the Elder as his primary speaker and has him cite the words of Archytas, Pythagoras, and Xenophon approvingly, in spite of the Roman statesman's infamous hostility to Greek philosophy.[13] This mismatch of content and character is something Cicero hints at in the introduction to the text, saying that his character Cato will argue 'more learnedly than he was accustomed to in his own books' (*eruditius videbitur disputare quam consuevit ipse in suis libris*, *Sen.* 3).[14] Cicero expands upon his reasons for selecting the historically inappropriate figure of Cato as his speaker in the introduction to the *De amicitia* (4), claiming that works of this kind have greater *gravitas* when imbued with the authority of old and illustrious men, even as he reminds us that the words given to the character Cato are, of course, his own ('reading my own words [*mea*] I am so affected that I sometimes think Cato is speaking rather than myself').[15] Yet, while in the *De senectute* the choice of an implausible speaker from a previous generation is presented as a virtue, Cicero chose to rewrite the *Academica* to avoid a similar lack of historical plausibility.[16] It is now time for us to consider why Cicero privileges the credibility of his fictive account in this particular dialogue, dealing, as it does, with Hellenistic epistemology.

3.3 The Rejection of 'Evidentness' (*Enargeia*) as an Indicator of Truth in the *Academica*

The contours and controversies of the epistemological debate in the *Academica* have been well documented, so I will take them up only briefly

[13] See e.g. *Sen*. 39, 72–3, and 79; for Cato the Elder's hostility to Greek philosophy see Plut. *Cato* 23.1 and *passim*, and the extended discussion by Gruen (1992: 52–83).

[14] Although Cicero goes on to explain Cato's out of character behaviour in this dialogue by claiming that he became a student of Greek literature in his old age, the end of the prologue tells us pointedly that it is Cicero's own views (*nostrum … sententiam*) that Cato is ventriloquising.

[15] *genus autem hoc sermonum positum in hominum veterum auctoritate, et eorum inlustrium, plus nescio quo pacto videtur habere gravitatis; itaque ipse mea legens sic afficior interdum ut Catonem, non me loqui existimem.* For a more in-depth discussion of the *De amicitia*'s response to the 'ventriloquism' of the *De senectute*, see Stroup (2013: 147–9).

[16] For the characterisation of Cato in the *De senectute*, see further Chapter 10 in this volume by McConnell.

here.[17] In each version of the dialogue, the character 'Cicero' argues for the position of the New Academy against representatives of the Old Academy of Antiochus, whose epistemological theory is presented in this work as being essentially the same as that of the Stoics.[18] That the views of the character 'Cicero' reflect the views of the author, can be seen not only in the identification of the character 'Cicero' with the author in the *Academica* itself (e.g. the reference to Cicero's role in the Catilinarian conspiracy at *Luc.* 62) but also in the way in which this dialogue is represented in contemporary letters and later works. In a letter to Atticus, Cicero plays on the double meaning of *pars* as both dramatic role and philosophical affiliation, saying that he is worried that Varro will complain that Cicero's *pars* is better defended than his own in the *Academica*.[19] In later texts, meanwhile, this work is presented as Cicero's defence of Academic epistemology: in the *Tusculan Disputations*, for example, it is described as presenting everything that could be said on behalf of the Academy (*pro Academia*, *Tusc.* 2.4).[20] Cicero's retrospective assessment of this work, then, is that it constituted not only a valuable exposition of the positions of these opposing philosophical schools to a new, Roman audience, but also that it conveyed the superiority of his own favoured sceptical system. This idea is further supported by the ending of the *Lucullus,* in which the speech of the character 'Cicero' in support of scepticism wins the day.

Cicero's defence of his sceptical system in this text (at least as can be reconstructed from the *Lucullus* and the limited evidence of the opening of *Academica* I) revolves around the rejection of the Stoic/Antiochian theory of the φαντασία καταληπτική or 'cataleptic impression'. According to Cicero's character Lucullus, Antiochus and the Stoics are in agreement in defining the cataleptic impression as: 'an impression … stamped and moulded from its source in a way that it couldn't be from what wasn't its source' (*tale visum … impressum effictumque ex eo unde esset quale esse non posset ex eo unde non esset*, *Luc.* 18). Such an impression, the Stoics and Antiochians claim, is necessarily true, and so can form a solid basis for human knowledge. 'Cicero', however, following his sceptical forerunners

[17] See Capello (2019) and Inwood and Mansfield (1997) for a complete bibliography.

[18] See e.g. *Acad.* 1.42; *Luc.* 69. The school here called the New Academy is referred to simply as *Academia* by 'Cicero' in the *Lucullus* (e.g. *Luc.* 103), but as *Academia nova* in the second edition (e.g. *Acad.* 1.13, 1.46).

[19] *Att.* 13.25 = 333 SB: *ita mihi saepe occurrit vultus eius querentis fortasse vel hoc, meas partis in iis libris copiosius defensas esse quam suas …*

[20] Cf. also *Nat. D.* 1.6 and *Div.* 2.1 on the defence of Academic scepticism as a primary aim of the dialogue.

Arcesilaus and Carneades, rejects the possibility that there exists any impression that is moulded by its source in such a way that it could not come to be from anything else. He describes the outline of the dispute as follows (*Luc.* 83):

> But, to narrow down our debate, please note how small our disagreement is. There are four premises to the conclusion that nothing can be known or apprehended [i.e. be the subject of a cataleptic impression], which is the only subject at question here. They are that:
>
> [1] there are some false impressions;
> [2] those [i.e. false] impressions aren't apprehensible [i.e. they are not cataleptic impressions];
> [3] when two impressions don't differ at all, it's not possible that one is apprehensible, while the other isn't;
> [4] there is no true impression derived from the senses that may not be paired with another impression that doesn't differ from it at all but isn't apprehensible [i.e. is not a cataleptic impression].
>
> Everyone concedes the second and third of these four premises. Epicurus doesn't grant the first; but you, our current opponents, concede that one, too. So the battle is entirely over the fourth premise.[21] (trans. Brittain, adapted)

The 'battle over the fourth premise', around which Cicero builds his defence of scepticism, focuses on the Stoic/Antiochian claim that we can distinguish cataleptic impressions from false impressions because the former come with 'a mark distinctive of a true impression, not common to true and false alike' (*propria veri, non commune veri et falsi nota*, *Luc.* 34). The mark is the *enargeia* or 'evidentness' of the impression – a feature which Cicero translates into Latin variously as *declaratio*, *perspicuitas*, or *evidentia*.[22] The cataleptic impression is, then, under the Stoic/Antiochian system, self-verifying: there is a qualitative difference between impressions that accurately represent the world and those which do not, in that the former exhibit 'evidentness' while the latter do not.

[21] *sed ut minuam controversiam, videte quaeso quam in parvo lis sit. quattuor sunt capita quae concludant nihil esse quod nosci percipi comprehendi possit, de quo haec tota quaestio est: e quibus primum est esse aliquod visum falsum, secundum non posse id percipi, tertium inter quae visa nihil intersit fieri non posse ut eorum alia percipi possint, alia non possint, quartum nullum esse visum verum a sensu profectum cui non adpositum sit visum aliud quod ab eo nihil intersit quodque percipi non possit. horum quattuor capitum secundum et tertium omnes concedunt; primum Epicurus non dat, vos quibuscum res est id quoque conceditis; omnis pugna de quarto est.*

[22] See *Acad.* 1.41 for *declaratio*; *Luc.* 83 for *perspicuitas* and *evidentia*.

In both editions of our text, Cicero makes the 'evidentness' of the cataleptic impression central to the Stoic/Antiochian position. At *Lucullus* 17, *enargeia* is discussed in the opening passage introducing the Stoic/Antiochian position. In *Academica* I, meanwhile, it is introduced as the essential feature of the cataleptic impression as first described by the character 'Varro' (*Acad.* 1.41):

> [Varro speaking:] 'He [Zeno] held that not all impressions are trustworthy but only those that have an "evidentness" (*declaratio*), peculiar to themselves, of the objects presented; and a trustworthy impression, being perceived as such by its own intrinsic nature he termed "apprehensible" (*comprehendibile*) – will you endure these coinages?' 'Indeed we will', said [Atticus], 'for how else could you express *katalēmpton*?'[23] (trans. Brittain, adapted)

The 'battle over the fourth premise', then, which Cicero claims separates the views of the Stoics/Antiochians from that of his own school, is the battle over the Stoic/Antiochian claim that true impressions come with this peculiar 'evidentness', which allows us to recognise them as true and which cannot be found in any false impression.

'Cicero's' response to this Stoic/Antiochian position in the revised, second edition of the text is, unfortunately, lost to us. It does, however, survive in the *Lucullus*, where we can see that his rejection of the Stoic/Antiochian claim that true impressions and *only* true impressions exhibit 'evidentness' is built around the use of a number of counter-examples. We find familiar optical illusions, including the straight oar that appears bent when seen in water (*Luc.* 79); the pigeon's neck, whose iridescent colouring appears different depending on the viewer's position (*Luc.* 79); and the sun, which, although it appears to us as a small dot in the sky, is, in reality, incredibly large (*Luc.* 82). In addition to these optical illusions, 'Cicero' also appeals to the false impressions created by altered states of consciousness: madness, drunkenness, and dreaming (*Luc.* 88–90). In each of these cases, it is argued, there is no way of telling from the quality of the impression itself that it does not accurately represent reality.[24]

The purpose of each of these counter-examples is to illustrate that false and true impressions possess the same level of 'evidentness' and, consequently, that this feature cannot function as a reliable 'mark' to distinguish

[23] *'… visis non omnibus adiungebat fidem sed is solum quae propriam quandam haberent declarationem earum rerum quae viderentur; id autem visum cum ipsum per se cerneretur, comprehendibile – feretis haec?' 'nos vero' inquit; 'quonam enim alio modo* καταληπτὸν *diceres?'*

[24] See e.g. *Luc.* 90: *inter visa vera et falsa ad animi adsensum nihil interesse.*

the false from the true. Instead, 'Cicero' argues that 'the true is distinguished from the false by no mark' (*nulla nota verum distinguebatur a falso*, *Luc.* 84). Indeed, at *Luc.* 105 'Cicero' lays claim to success in his argument, stating that Lucullus' 'defence of "evidentness"' (*perspicuitatis patrocinium*) has collapsed under his onslaught. 'Cicero's' goal in his speech, then, is to show that 'evidentness' of the kind envisaged by the Stoics/Antiochians, which acts as a guarantee of the truth of an impression, is indefensible. Instead, we find in the world around us numerous examples of impressions that are evident, but turn out to be false: the oar bent in water, the purple glint of a pigeon's neck, the yellow light reflected off the ocean by the setting sun. These impressions are evident and so, according to Cicero's own philosophical school of Academic scepticism, they might compel us to assent to them as *probable*, but this 'evidentness' can never guarantee that they are *true*.[25] When we remove the oar from the water we realise that the impression that it was bent was false, however 'evident' this impression may have been.

There is, however, another kind of *enargeia* that may be relevant to our reading of the *Academica*, and which further illustrates that 'evidentness' is no guarantor of truth. This is the *enargeia* of Hellenistic rhetorical theory, and it is the kind of quality that a dramatically vivid yet, ultimately, fictional account found in a dialogue such as the *Academica* might possess. In addition to instances such as the pigeon's neck and the bent oar, then, we could read the entirety of the *Academica* as yet another counter-example to the Stoic-Antiochian formulation of 'evidentness': the text itself is a fictional account that displays the qualitative feature of 'evidentness', so undermining the claim of the Stoics/Antiochians that 'evidentness' is borne exclusively by true impressions.

An objection could be raised at this point that the impressions produced by reading a literary dialogue are simply not the right *kind* of impressions to form successful counter-examples to the Stoic/Antiochian position, as described in this text. The text emphasises repeatedly that the type of cataleptic impression that the Stoics/Antiochians are most interested in defending is the cataleptic impression generated by sense perception – the reliability of which can, consequently, confirm the reliability of our senses themselves.[26] Although the sound or appearance of the words that make up the *Academica* may produce this kind of sensory impression in the listener or reader, the impressions that we get in regard to the speech

[25] For a full account of the function of *enargeia* in the epistemology of the Academic sceptics, see Ierodiakonou (2011: 71–2).

[26] See e.g. *Luc.* 19.

and activities of a character such as 'Cicero' when we read the *Academica* are of a different kind – they are non-sensory impressions considered by the Stoics to be received directly by the mind itself rather than through the senses.[27] According to the standard Stoic account, human language articulates incorporeal *lekta* ('sayables'), which can produce in the mind of a reader or listener non-sensory impressions that represent a possible external state of affairs.[28] If a *lekton* represents the external world as it really is, then it is true; if it does not match up with the external reality, it is false.[29] Narratives and descriptions, of the kind found in literature, then, in that they articulate *lekta* ('sayables'), would, on the Stoic/Antiochian account, generate impressions in their audience. Indeed, Epictetus famously describes the *Iliad* as 'nothing but impression (φαντασία) and the use of impressions (χρῆσις φαντασιῶν)'.[30] Elizabeth Asmis takes this to mean that the poem represents characters like Achilles and Agamemnon (mis)using the impressions they receive, but also that the poem is itself an impression that the audience might themselves use.[31] Given, then, that the impressions created by a text such as the *Academica* would be non-sensory, the question now becomes: how might the kinds of *non*-sensory impressions generated by a work of literature form a relevant counter-example to

[27] Diog. Laert. 7.51: τῶν δὲ φαντασιῶν κατ' αὐτοὺς αἱ μέν εἰσιν αἰσθητικαί, αἱ δ' οὔ· αἰσθητικαὶ μὲν αἱ δι' αἰσθητηρίου ἢ αἰσθητηρίων λαμβανόμεναι, οὐκ αἰσθητικαὶ δ' αἱ διὰ τῆς διανοίας καθάπερ τῶν ἀσωμάτων καὶ τῶν ἄλλων τῶν λόγῳ λαμβανομένων ('According to them some presentations are sensory and others are not: the sensory impressions are those conveyed through a sense-organ or sense-organs; *the non-sensory are those received by the intellect*, as is the case with incorporeal things and all the other presentations which are received by reason'). Emphasis my own.

[28] Løkke (2015: 43–8 and *passim*). See Bronowski (2019: 181–5) for an account of how, on the Stoic view, impressions come to be produced in the material mind by immaterial *lekta*.

[29] Sext. Emp. *M.* 8. 11–12 (trans. Løkke, 2015: 44): '[The Stoics hold that] three things are linked together, that which is signified and that which signifies and the object (τό τε σημαινόμενον καὶ τὸ σημαῖον καὶ τὸ τυγχάνον). That which signifies is the utterance (τὴν φωνήν), for instance "Dion"; that which is signified is the actual state of affairs revealed by it (αὐτὸ τὸ πρᾶγμα τὸ ὑπ' αὐτῆς δηλούμενον), and which we grasp as it also subsists in our mind, whereas it is not understood by those whose language is different although they hear the utterance; and the object is the external thing (τὸ ἐκτὸς ὑποκείμενον), for instance Dion himself. Two of these are bodies, namely the utterance and the object, while one is incorporeal, namely the state of affairs that gets signified, i.e. the sayable, which is true or false (τὸ σημαινόμενον πρᾶγμα, καὶ λεκτόν, ὅπερ ἀληθές τε γίνεται ἢ ψεῦδος)'. See also Diog. Laert. 7.65–6.

[30] *Disc.* 1.28.12–13. The plays *Atreus*, *Oedipus*, *Phoenix*, and *Hippolytus* are described in this same text as φαινόμενα (cf. note 31 below), which may be a reference to the fact they generate impressions in their audience, or that the action of each play starts from a false or misleading impression generated by a report received by one the characters by, for example, the oracle in *Oedipus* or Phaedra's note in the *Hippolytus* (1.28.32–3).

[31] Asmis (2017: 134): 'A poem, as he points out, is not simply a φαντασία, but the use of φαντασίαι. Just like the characters in a poem, so we use φαντασίαι. To go one step further, a poem is among the φαντασίαι that we use.'

the accounts of the unique 'evidentness' of true *sensory* impressions found in the Stoic/Antiochian sections of the *Academica*?

Significantly, the New Academy appeals to precisely this kind of non-sensory impression when attacking the Stoic/Antiochian claim that true impressions are qualitatively distinct from false impressions by virtue of their 'evidentness'. The counter-examples of the madman, the inebriated man, and the dreamer, exploited frequently by the sceptical Academy, are introduced precisely because the non-sensory impressions produced by the minds of those who are in these atypical states seem to them to exhibit the same level of 'evidentness' as true impressions resulting from sense perception. The fact that these impressions appear to be qualitatively indistinguishable from true impressions, despite having no external origin in the real world, is precisely what makes them powerful counter-examples to the Stoic/Antiochian formulation of the cataleptic impression. Consequently, the non-sensory nature of these impressions is emphasised by Cicero throughout the text. When they are first introduced by Lucullus (*Luc.* 51), these impressions are described as 'produced by the imagination (*cogitatio*)' and 'fabricated (*fingere*) to ourselves and invented (*depingere*) by the imagination (*cogitatio*)' (the use of the terms *fingere* and *depingere* here, interestingly, being taken from the field of artistic or literary production). When the examples of the madman, inebriated man, and the dreamer are raised again by 'Cicero' at *Luc*. 88–90, he concludes his discussion by once more pointing out the non-sensory nature of these counter-examples, ending his account with the words 'but I am departing from the senses' (*sed abeo a sensibus*, *Luc.* 90).

The sorts of non-sensory impressions experienced by the reader of a dramatic dialogue would, then, seem to be of a similar kind to those experienced by the dreamer, drunkard, or madman, in that each of these is received by the intellect (whether in response to a *lekton* or a physiological disturbance), rather than being received through the senses. Indeed, at the conclusion of his discussion of poetic *phantasia*, Epictetus appears to make explicit the analogy between those misled by madness and those misled by language, describing those who assent to the kinds of *phainomena* found in tragedy as 'madmen'.[32] So, then, the impressions created by the literary

[32] *Disc.* 1.28.32–3: καὶ ποία τραγῳδία ἄλλην ἀρχὴν ἔχει; Ἀτρεὺς Εὐριπίδου τί ἐστιν; τὸ φαινόμενον. Οἰδίπους Σοφοκλέους τί ἐστιν; τὸ φαινόμενον. Φοῖνιξ; τὸ φαινόμενον. Ἱππόλυτος; τὸ φαινόμενον. τούτου οὖν μηδεμίαν ἐπιμέλειαν ποιεῖσθαι τίνος ὑμῖν δοκεῖ; τίνες δὲ λέγονται οἱ παντὶ τῷ φαινομένῳ ἀκολουθοῦντες; – Μαινόμενοι ('And what tragedy has another source? The *Atreus* of Euripides, what is it? An appearance. The *Oedipus* of Sophocles, what is it? An appearance. The *Phoenix*? An appearance. The *Hippolytus*? An appearance. Who then do you think pays no regard to this? And what are those who follow every appearance called? Madmen'). In her reading of this passage, Asmis (2017: 134) suggests: 'his use of the term φαινόμενον as a substitute for Stoic φαντασία offers a response to Plato'.

representation of the conversation which takes place in the *Academica* seem to be precisely the kind of impressions that could be employed as a counter-example against Stoic/Antiochian epistemology – provided, that is, that the impressions resulting from reading this text have a level of 'evidentness' similar to that exhibited by impressions formed from true events.[33]

Now, then, it is time to turn to a consideration of the role of 'evidentness' in Hellenistic rhetorical theory. This will confirm that 'evidentness' is a feature that can be extended to literary texts and that it can be imparted to dramatic dialogues like the *Academica*. We will then look at the ways in which Cicero works to foster this 'evidentness' in his own text, before, finally, returning to how he plays with the epistemological ramifications of the 'evident' nature of this fictional representation in his dedicatory letter.

3.4 The Role of 'Evidentness' in Hellenistic Rhetorical Theory

As already mentioned, the concept of *enargeia* (or 'evidentness') is employed not only in Stoic/Antiochian epistemology, but also in Hellenistic rhetorical theory.[34] Graham Zanker provides a comprehensive overview of the use of this term in Greek criticism, as well as the transmission of these ideas into Latin.[35] As we shall see, the rhetorical function of *enargeia* is to make an account seem persuasive to an audience by adding what Lausberg calls an 'intensification of "clarity" and "probability"'.[36] More particularly, an account with *enargeia* appeals to the senses, making the events of a reported narrative appear to be experienced by the audience as if they were impressions received from sense data. These features of rhetorical *enargeia* allow a narrative exhibiting this feature to form a possible counter-example to the Stoic-Antiochian formulation of the cataleptic impression, and they are both adopted by the Romans from Greek rhetorical theory.

First, then, let us consider the production and purpose of *enargeia* as described in the Greek rhetorical texts of Dionysius of Halicarnassus (writing a generation after Cicero, but working within the same intellectual

[33] The idea that non-sensory, as well as sensory, impressions can have 'evidentness' is present in the Greek philosophical tradition: e.g. Sext. Emp. *M*. 7.216–7: 'But Aristotle and Theophrastus and in general the Peripatetics also allow the criterion to be twofold (the nature of things being, at the highest level, twofold, since, as I said before, some things are perceptible, others intelligible): sense-perception for perceptible things, intelligence for intelligible things, and common to both, as Theophrastus said, what is evident (ἐναργές)'. Emphasis my own.

[34] This connection has previously been noted, but not explored further, by Vassaly (1993) in her work on Ciceronian oratory.

[35] Zanker (1981).

[36] Lausberg (1998: 360).

tradition) and Pseudo-Demetrius, the author of *On Style* (who seems to have been active sometime between the third-century BCE and the first-century CE, and likely predated Cicero).[37]

Dionysius of Halicarnassus makes the following claim about the presence of *enargeia* in the work of the early fourth-century BCE speech-writer Lysias (*Lys.* 7):

> 'Evidentness' (*enargeia*) is a quality which the style of Lysias has in abundance. This consists in a certain power of bringing the things described under the senses of the audience, and it arises out of his grasp of circumstantial detail. Nobody who applies his mind to the speeches of Lysias will be so obtuse, insensitive or slow-witted that he will not feel that he can see the actions which are being described going on and that he is meeting face-to-face the characters in the orator's story. And he will require no further evidence of the likely actions, feelings, thoughts or words of the different persons. He was the best of all the orators at observing human nature and ascribing to each type of person the appropriate emotions, moral qualities and actions.[38] (trans. Usher, adapted)

Dionysius claims in this passage that, although Lysias's audience do not experience the events described by the orator at first hand, the 'evidentness' of his style means the events described are brought under the domain of the senses (ὑπὸ τὰς αἰσθήσεις). The meaning of this rather puzzling phrase is explained by the next sentence. Lysias's words make the average audience member feel like he 'sees' (ὁρᾶν) events that are only described to him, and that he himself stands face-to-face with the characters of the narrative. So, just as in Stoic/Antiochian epistemology, the quality of rhetorical 'evidentness' described here makes us feel a direct, sensory connection with an external event. The difference here is that the audience have, in fact, no first-hand sensory experience of the events that appear to them to be so evident; instead, the convincing, sensory quality of the impressions that they receive comes from Lysias's rhetorical skill in imparting *enargeia* to his speeches. To put this in terms of Stoic/Antiochian epistemology, the 'evidentness' of these impressions would come not from the fact that they have the particular causal history associated with the cataleptic impression

[37] See De Jonge (2012) for a full bibliography regarding the dating of Pseudo-Demetrius.

[38] ἔχει δὲ καὶ τὴν ἐνάργειαν πολλὴν ἡ Λυσίου λέξις. αὕτη δ' ἐστὶ δύναμίς τις ὑπὸ τὰς αἰσθήσεις ἄγουσα τὰ λεγόμενα, γίγνεται δ' ἐκ τῆς τῶν παρακολουθούντων λήψεως. ὁ δὴ προσέχων τὴν διάνοιαν τοῖς Λυσίου λόγοις οὐχ οὕτως ἔσται σκαιὸς ἢ δυσάρεστος ἢ βραδὺς τὸν νοῦν, ὃς οὐχ ὑπολήψεται γινόμενα τὰ δηλούμενα ὁρᾶν καὶ ὥσπερ παροῦσιν οἷς ἂν ὁ ῥήτωρ εἰσάγῃ προσώποις ὁμιλεῖν. ἐπιζητήσει τε οὐθέν, οἷον εἰκὸς τοὺς μὲν ἃν δρᾶσαι, τοὺς δὲ παθεῖν, τοὺς δὲ διανοηθῆναι, τοὺς δὲ εἰπεῖν. κράτιστος γὰρ δὴ πάντων ἐγένετο ῥητόρων φύσιν ἀνθρώπων κατοπτεῦσαι καὶ τὰ προσήκοντα ἑκάστοις ἀποδοῦναι πάθη τε καὶ ἤθη καὶ ἔργα.

(i.e. coming from what is true in such a way that it could not come to be from anything that is false), but by virtue of the vivid style in which Lysias relates his narrative. Moreover, Dionysius even gives us some of the features of the kind of vivid style that engenders 'evidentness':[39] Lysias's ability to produce this quality of 'evidentness' in his speeches is attributed to the inclusion of dramatic details into his narrative, including circumstantial detail (τῶν παρακολουθούντων) and appropriate characterisation ('ascribing to each type of person the appropriate emotions, moral qualities and actions').

Pseudo-Demetrius, in his account of *enargeia*, further emphasises the importance of detailed scene-setting for the production of this effect, and also draws our attention to the fact that this sort of quality is associated with the philosophical dialogues of Plato (*On Style*, 209 and 217–18):

> (209) First, 'evidentness': it comes first from the use of precise detail and from omitting and excluding nothing, for example the whole simile beginning 'as when a man draws off water in an irrigation channel'. This comparison owes its 'evidentness' to the fact that all accompanying details are included and nothing is omitted . . . (217) 'Evidentness' also comes from the use of circumstantial detail, as in someone's description of a countryman walking along, 'the clatter of his feet was heard from far away as he approached', just as if he were not just walking along but virtually stamping the ground. (218) Plato too has an example when he is describing Hippocrates: 'He was blushing, for there was already a first glimmer of daylight to reveal him' (Pl. *Protag*. 312a). This is extremely 'evident', as anybody can see, and the 'evidentness' is the result of his careful use of words and keeping in mind that it was night when Hippocrates visited Socrates.[40] (trans. Innes, adapted).

Again, this rhetorical theorist emphasises the inclusion of accompanying detail as being key to the production of *enargeia*, and the passage from Plato's *Protagoras* provides us the kind of accompanying details which produce this effect in the context of a philosophical dialogue, namely the

[39] Though, of course, they are not employed solely in order to produce *enargeia*; rather, the clarity and vividness of passages marked with *enargeia* can also contribute to characterisation and other elements of a persuasive account.

[40] (209) πρῶτον δὲ περὶ ἐναργείας· γίνεται δ' ἡ ἐνάργεια πρῶτα μὲν ἐξ ἀκριβολογίας καὶ τοῦ παραλείπειν μηδὲν μηδ' ἐκτέμνειν, οἷον "ὡς δ' ὅτ' ἀνὴρ ὀχετηγὸς" καὶ πᾶσα αὕτη ἡ παραβολή· τὸ γὰρ ἐναργὲς ἔχει ἐκ τοῦ πάντα εἰρῆσθαι τὰ συμβαίνοντα καὶ μὴ παραλελεῖφθαι μηδέν … (217) γίνεται δὲ καὶ ἐκ τοῦ τὰ παρεπόμενα τοῖς πράγμασι λέγειν ἐνάργεια, οἷον ὡς ἐπὶ τοῦ ἀγροίκου βαδίζοντος ἤφη τις, ὅτι 'πρόσωθεν ἠκούετο αὐτοῦ τῶν ποδῶν ὁ κτύπος προσιόντος', ὡς οὐδὲ βαδίζοντος ἀλλ' οἷόν γε λακτίζοντος τὴν γῆν. (218) ὅπερ δὲ ὁ Πλάτων φησὶν ἐπὶ τοῦ Ἱπποκράτους, 'ἐρυθριάσας [ἤδη τῇ νυκτί], ἤδη γὰρ ὑπέφηνέν τι ἡμέρας, ὥστε καταφανῆ αὐτὸν γενέσθαι', ὅτι μὲν ἐναργέστατόν ἐστι, παντὶ δῆλον· ἡ δ' ἐνάργεια γέγονεν ἐκ τῆς φροντίδος τῆς περὶ τὸν λόγον καὶ τοῦ ἀπομνημονεῦσαι, ὅτι νύκτωρ πρὸς αὐτὸν εἰσῆλθεν ὁ Ἱπποκράτης.

inclusion of an incidental detail which can allow the reader to picture the dramatic setting of the work.

When the concept of *enargeia* is taken up in Roman rhetorical theory, here, too, we find the claim that it is the feature of an oratorical work, which accounts for the fact that literary texts can give us the kind of vivid mental impressions that we would expect to derive only from direct sensory contact with the characters and events being described. In his dialogue *Partitiones oratoriae*, which purports to be a Latin language account of Greek rhetorical theory, the character 'Cicero' describes this feature of rhetorical style (which he here calls *inlustris oratio*) as the part of oratory 'which almost sets the event before the eyes', with the effect 'that we seem to see' (*ut videre videamur*) the events in question (*Part. or.* 20). The idea that this effect (here called *inlustris explanatio*) is produced by the inclusion of a detailed narrative account, meanwhile, is found in Cicero's *De oratore*, where the character Crassus states (*De or.* 3.202):

> For dwelling on a single circumstance has a considerable effect, and clear illustration (*inlustris explanatio*) and the placing of matters almost within one's field of vision, as if they were happening. This has wonderful power for representing an event, both to illustrate what is represented, and to amplify it, so that the thing we amplify may appear to the audience to be as great as our speech is able to make it.[41]

Here we can see that Cicero adopts in his own rhetorical theory the Greek idea that narrative accounts of events can, if described with sufficient rhetorical flair, create an impact on the audience as if they had experienced them first hand, through their own senses. In similar terminology to that which will be used by Dionysius, Cicero describes the function of *enargeia* as 'placing [the events described] under the sight' of the audience (*sub aspectum paene subiectio*).

So, then, as Zanker has observed, 'the ancient testimonia [in which he includes that of Cicero himself] … demonstrate that *enargeia* and its Latin equivalents denote that stylistic quality of descriptive representation which makes a vivid appeal to the senses, in particular to sight; a number add the consideration that it will be produced by detailed description of the attendant circumstances of an action'.[42] Moreover, this rhetorical feature

[41] *nam et commoratio una in re permultum movet et inlustris explanatio rerumque, quasi gerantur, sub aspectum paene subiectio; quae et in exponenda re plurimum valent et ad inlustrandum id, quod exponitur, et ad amplificandum; ut eis, qui audient, illud, quod augebimus, quantum efficere oratio poterit, tantum esse videatur.*

[42] Zanker (1981: 299–300).

is useful to the orator because it can be used to convince the audience of a political or forensic speech of the truth of an account.[43] Indeed, in Pseudo-Longinus the ability of *enargeia* to convince an audience of that which is not true is depicted as being so powerful that it is said to 'enslave' rather than merely 'persuade' the audience.[44] If a literary work were to exhibit this kind of rhetorical 'evidentness', then it would have precisely those qualities that would make it an ideal candidate as a successful counter-example to the Stoic/Antiochian theory of the cataleptic impression: this kind of literary account would produce in its reader all of the qualitative features typically associated with true impressions produced by sense perception, despite that fact that the reader has had no sensory contact with the characters or events depicted by the text at all. The reader of a well-crafted literary account could, then, be seen by the Academic sceptic to be in the same position as that much-used figure, the dreamer: just as the dreamer has impressions which *appear* to derive from sense perception, but are in fact produced by his mind, so too the reader of a dramatically successful text has impressions which appear to derive from sense perception but are instead produced by the mind's response to the stylistic features of the literary work.

The epistemological *enargeia* discussed in the *Academica* is, then, consistent with the rhetorical *enargeia* discussed in rhetorical texts in that each makes us think that an impression derives from reliable sense data, while, in fact – in the view of the Academic sceptics, at least – it offers no guarantee of the truth of an account. And the very value of this rhetorical *enargeia* is that it can sway our epistemological judgements. As Cicero notes in book 3 of the *De oratore*, 'if truth were efficient enough in delivery of itself, we should certainly have no need for the aid of art' (*sed ea [sc. veritas] si satis in actione efficeret ipsa per sese, arte profecto non egeremus*, *De or.* 3.215).

The epistemological and rhetorical accounts of *enargeia* are also connected by the terminology which Cicero employs to describe them. In each of the passages that we have seen and, indeed, in the majority of surviving passages in which Cicero deals with this idea of rhetorical 'evidentness', *illustratio* or cognate terms are used. Quintilian, however, writing a century and a half after Cicero and drawing heavily on his work,

[43] Lausberg (1998: 141 and 360), gives an overview of the contribution *enargeia* makes to fostering of the verisimilitude of an account, saying '*evidentia* is, for *narratio*, an enhancement of the necessary virtues of "clarity" and "probability" …' (360).

[44] [Longinus], *Subl.* 15.9. See Goldhill (2007: esp. 3–6) for a discussion of *enargeia* in persuasive contexts.

speaks of 'ἐνάργεια, which is called by Cicero "illustration" (*inlustratio*) and "evidentness" (*evidentia*)' (Quint. *Inst.* 6.2.32).[45] Although not used to translate *enargeia* in his surviving rhetorical works, *evidentia* is, of course, one of the technical terms used by Cicero to translate this Greek term in the *Academica* (e.g. *Luc*. 83). When Quintilian describes the effect of this rhetorical 'evidentness', he echoes our other sources in noting that *evidentia* makes it seem that someone is directly showing (*ostendere*) these events to an audience, rather than narrating (*dicere*) them, which, in turn, produces an impact upon the emotional state of the audience as if they had witnessed these events first hand.[46] Quintilian here, then, is reiterating Cicero's theory of rhetorical 'evidentness' but, in so doing, he employs the terminology used by Cicero in his account of epistemological 'evidentness' in the *Academica*. When Quintilian expands on the psychological effect of rhetorical 'evidentness', again it is the terminology of the *Academica* that he uses: 'evident' texts produce vivid φαντασίαι ('impressions') in our minds, which Quintilian translates into Latin using the Ciceronian *visiones* (e.g. *Luc*. 33 and *passim*).[47] Quintilian's words, then, suggest a terminological connection between the accounts of rhetorical 'evidentness' produced by Cicero, and the account of epistemological 'evidentness' given in the *Academica* – a connection that seems to be confirmed in Cicero's *Topica* where we are told that *narrationes* should be *evidentes*, presumably meaning, here, 'evident' (*Top*. 97).[48]

Indeed, this terminological connection also runs in the other direction, and we find in the epistemological account of *Academica* the same vocabulary of *illustratio* that is present in the discussion of rhetorical 'evidentness' in the *De oratore* and *Partitiones oratoriae*. 'Evident' impressions are described using the adjective *inlustris* throughout *Luc*. 94. In the summary of Stoic epistemology at *De natura deorum* 1.12, meanwhile, the

[45] For Quintilian's reliance on Cicero, see, for example, his citation of the passage of the *De oratore* just quoted at Quint. *Inst.* 9.2.40.

[46] Quint. *Inst.* 6.2.32: *insequentur enargeia, quae a Cicerone inlustratio et evidentia nominatur, quae non tam dicere videtur quam ostendere, et adfectus non aliter quam si rebus ipsis intersimus sequentur* ('ἐνάργεια arises, which Cicero calls *illumination* and *evidentness*, which seems to show rather than to narrate, and our emotions follow no less than if we were present at the events themselves').

[47] Quint *Inst.* 6.2.30–1: *quas* φαντασίας *Graeci vocant (nos sane visiones appellemus), per quas imagines rerum absentium ita repraesentantur animo ut eas cernere oculis ac praesentes habere videamur, has quisquis bene ceperit is erit in adfectibus potentissimus* ('The person who will show the greatest power in the expression of emotions will be the person who has properly formed what the Greeks call *phantasiai* (let us call them "*visiones*"), by which the images of absent things are presented to the mind in such a way that we seem actually to see them with our eyes and have them physically present to us').

[48] I thank the anonymous reader for Cambridge University Press for this observation.

paradigmatically 'evident' cataleptic impression is described as *insignis et inlustris*. The shared terminology, then, underscores the striking parallels between rhetorical and epistemological *enargeia*, as characterised in Cicero's texts.

What remains, before we turn to a discussion of the features indicative of rhetorical 'evidentness' within the *Academica* itself, is to note that a dramatic dialogue of this type is precisely the kind of text to which this rhetorical theory should apply. In the first place, as discussed at the beginning of this paper, both editions of the text are structured as a series of competing speeches (*orationes*). We ourselves may have a tendency, as expressed by Schofield, to look at these extended speeches and think they provide less opportunity for dramatic impact than the more conversational back and forth of some Platonic dialogues.[49] In Ciceronian terms, however, the use of extended *oratio* allows him to employ all of the tricks of the orator's trade (as he tells us at *Tusc.* 1.7, his goal in writing his philosophical texts is to combine *prudentia* with *eloquentia*), and so provides him with precisely the right kind of material for producing *inlustris oratio* ('evident speech') and the vivid dramatic impact that goes with it. Moreover, this is exactly what Cicero tells us he is doing in this work. The character 'Cicero' tells us at the very beginning of *Academica* I that the author's project of writing Greek philosophy in Latin is an attempt 'to make evident in Latin literary form the old system of philosophy which arose from Socrates' (*philosophiamque veterem illam a Socrate ortam Latinis litteris illustrare*, *Acad.* 1.4).

3.5 The Production of 'Evidentness' in the *Academica*

So, then, can we find evidence of attempts to impart a rhetorical 'evidentness' within the *Academica* itself? If we take the attempt to impart *enargeia* to a text to involve those stylistic features described by Cicero and our other Hellenistic rhetorical theorists in the preceding section – namely, description of circumstantial detail and realistic characterisation – then a brief glance at the text will show us that we can.

In addition to the introductory scene-setting of each of the editions (which, in the case of the *Lucullus*, involves a lengthy ten-paragraph discussion of Lucullus's biographical details to convince us that he might realistically have been the author of his upcoming speech on Antiochus), we find repeated references to the dramatic frame of the dialogue, even in the midst of philosophical exposition. In *Academica* I, for which we have less extensive

[49] Schofield (2008), as discussed in Section 3.1.

evidence, the nods to the dramatic frame are accomplished by frequent interjections and encouragement from the characters 'Cicero' and Atticus, as they listen to Varro's speech. Varro's speech, which starts at *Acad.* 1.15, is interrupted at *Acad.* 1.18, 1.25, 1.26, 1.33, 1.35, and 1.41, before our text breaks off at *Acad.* 1.46, so the reader goes no more than a few paragraphs without being reminded that this speech is depicted as part of a real-life conversation. In the *Lucullus*, we find repeated references to the dramatic setting of the conversation, which is imagined as taking place in the garden of Hortensius's house at Bauli, overlooking the Bay of Naples (*Luc.* 9). 'Cicero' appeals to the dramatic setting of the conversation in order to make a point about the imperfect nature of eyesight, saying (*Luc.* 80):

> Looking from this spot straight ahead, I see Catulus's house in Cumae, but not the one in Pompeii, although there is nothing interposed to hinder my sight – it's just that my vision can't stretch that far. What a wonderful view! I can see Puteoli! But I can't see my friend Publius Avianius, though he may be taking a stroll in the Portico of Neptune.[50] (trans. Brittain, adapted)

He then goes on to talk about the fish that are in the bay just a short distance away from them, although they cannot see them (*qui neque videntur a nobis et nunc quidem sub oculis sunt*, *Luc.* 81). This seaside setting is invoked by 'Cicero' again at *Luc.* 100, where he introduces the question of whether the wise man would hold any opinions if he set out by boat from their current location to Puteoli. At *Luc.* 105 'Cicero' points to 'that sea there' (*mare illud*), which appears to change colour based on the position of the Sun. The dramatic setting is invoked once more at *Luc.* 125, when describing Democritus's theory of multiple worlds ('just as we are now at Bauli and have a view of Puteoli, so there are innumerable other groups of people with the same names and distinctions and record, minds, appearances and ages, discussing the same subjects in similar places').[51] We find this frequent invocation of the dramatic setting of the text alongside repeated mentions of the opinions and biographies of the characters, and the regular use of exclamation and direct address to remind us that these speeches are presented as being delivered to a particular group of Roman statesmen.[52] Indeed, Cicero's integration of setting and argument is such

[50] *ego Catuli Cumanum ex hoc loco cerno et e regione video* [I am here using Reid's text], *Pompeianum non cerno, neque quicquam interiectum est quod obstet, sed intendi acies longius non potest. o praeclarum prospectum: Puteolos videmus; at familiarem nostrum P. Avianium fortasse in porticu Neptuni ambulantem non videmus.*

[51] *et ut nos nunc simus ad Baulos Puteolosque videamus sic innumerabiles paribus in locis esse isdem nominibus honoribus rebus gestis ingeniis formis aetatibus isdem de rebus disputantes.*

[52] For example, the reference to Cicero's foiling of the Catlinarian conspiracy at *Luc.* 62 and vocatives such as *Luculle* (*Luc.* 87) and *Catule* (*Luc.* 89).

that, in his second edition of the *Academica*, he retains this waterfront setting (now, though, with the action transported to Varro's villa in Cumae) to accompany what seems from our fragments to be a continued reliance upon aquatic examples.[53]

To turn now to characterisation, we have already observed in our discussion of Cicero's letters to Atticus the emphasis placed by the author upon the selection of plausible characters for his dialogue. Further evidence of Cicero's concern with credible characterisation in his production of this can be found in the text as we have it. In the introduction to the *Lucullus*, Cicero ties himself in knots trying to provide a suitable backstory for his character Lucullus that will provide him with the necessary knowledge of Antiochian philosophy which, as the letters to Atticus tell us, his historical model probably did not have.[54] In the second edition of the text, meanwhile, there are repeated references to the intellectual biographies and current literary interests of the characters, which work together to give credence to the possibility that they should engage in the kind of discussion described in the text. Finally, the conversation between the characters in both editions is full of the familiarity and respectful disagreement that we are meant to believe typifies a real conversation between a group of elite Roman friends.[55]

All of these features, then, when taken together, indicate that Cicero's text was produced with an eye to imbuing it with dramatic credibility and rhetorical 'evidentness', and so that it was intended to affect the reader in such a way that he experienced the depicted speeches as if they were real and taking place in front of his very eyes. Instead of exhibiting the 'negation of the dramatic in the interests of the exposition of systems',[56] then, in the *Academica* Cicero takes care to employ the very rhetorical tropes that are designed to bring the scenes he depicts to life in the mind of his reader. Indeed, Cicero's efforts to build a sense of place and character in this text seem fully comparable to the paradigmatic example of *enargeia* in Plato given by Pseudo-Demetrius: 'he was blushing, for there was already a first glimmer of daylight to reveal him' (Pl. *Protag.* 312a).

[53] See Griffin (1997: 24). The fragments in question are fr. 3 and 7 (Reid) from book 2 and fr. 13 (Reid) from book 3. Fragment 13 is particularly striking for its reliance upon the visual features of the dramatic setting: 'right now we are sitting by the Lucrine Lake and see the little fishes jumping out of the water' (*et ut nos nunc sedemus ad Lucrinum pisciculosque exultantes videmus*).

[54] See *Luc.* 5, where Cicero raises the fact that some readers will not believe his claim that Lucullus knew the doctrines of Antiochus.

[55] See e.g. Lucullus's gentle mockery of Cicero at *Luc.* 62; Hortensius's jokes and praise at *Luc.* 63, and so on. Cf. Hall (1996) who notes a similar concern with imitating real-life social interactions in the *De oratore*.

[56] Schofield (2008: 1).

3.6 The Dedicatory Letter as a Guide to the Function of the Dialogue Form

So far, we have examined the ways in which Cicero works to maximise the 'evidentness' of his *Academica* and have developed a tentative hypothesis that, in producing this kind of credible but ultimately fictitious account, he may be providing his reader with a large-scale counter-example to the Stoic/Antiochian claim that cataleptic impressions are uniquely 'evident'. I am now going to suggest that this kind of reading may be further authorised and endorsed by the programmatic dedicatory letter which accompanied the second edition.

While we have lost the larger part of the second edition of the *Academica*, we are lucky enough to have both a letter dedicating the dialogue to Varro, and a letter to Atticus which discusses this dedicatory letter. This letter to Atticus tells us that the dedicatory letter was appended to the copy of the text sent by Cicero to his friend and publisher.[57] As such, it may have been included within the edition of the *Academica* made by Atticus's copyists and distributed to a general audience.[58] The dedicatory letter, which, Cicero complains, he laboured over at length ('let me be damned if I ever take so much trouble about anything again!'),[59] displays all the expected features of the genre, dedicating the work to Varro and outlining the social obligations that arise from this act. It also, however, contains an unexpected comment concerning the anticipated impact of the text on its reader. At the end of section 1, Cicero writes (*Fam* 9.8 = 360 SB):

> I think that when you read it [i.e. the 2nd edition of the *Academica*] you will be amazed that we have said to each other things that we have never said; but you know the convention of dialogues.[60]

The reader's amazement (*mirere*) is presumably the result of the mismatch described here between the events as represented in the text (*nos id locutos esse inter nos*) and the way in which they actually happened (*numquam locuti sumus*).[61] So this letter, which prefaces the work as a whole, asks the

[57] *Att.* 3.25 = 70 SB: *sed, quaeso, epistula mea ad Varronem valdene tibi placuit?*

[58] Shackleton Bailey (1977: 423) argues that the conclusion of the letter, which devolves into friendly chit chat, speaks against its publication alongside the text of the dialogue. If this paper has been convincing in arguing that Cicero is concerned with effectively dramatising fictitious exchanges in this text, however, we may have reason to reassess the view that, just because a letter looks like a real letter, it cannot (also) be a literary artefact.

[59] *Att.* 3.25 = 70 SB: *male mi sit si umquam quicquam tam enitar.*

[60] *puto fore, ut, cum legeris, mirere nos id locutos esse inter nos, quod numquam locuti sumus; sed nosti morem dialogorum.*

[61] Indeed, in the Greek rhetorical tradition *enargeia* is associated with ἔκπληξις, 'astonishment': see e.g. [Longinus] *Subl.* 15.2.

reader to turn his attention to the generic identity of the *Academica* as a dramatic dialogue (it follows the *mos dialogorum*), and points out the key feature which it shares with other examples of this genre: namely, that it provides a credible and convincing account of a conversation which is entirely fabricated. The reference to this *mos dialogorum*, then, works before the dialogue even begins to draw the reader's attention to its status as a convincing account of a real-life conversation, while simultaneously revealing it to be a literary fiction. The difficulty in differentiating the real from the unreal, which will turn out to be the main philosophical theme of the text as a whole, is first encountered, then, as a problem exhibited by the literary form of the philosophical dialogue: the *mos dialogorum* is to portray events with such verisimilitude that we would be astonished to discover that they did not, in fact, occur. The dramatic illusion of the *Academica* itself, then, may very well be the first example that we encounter of the epistemological uncertainty that will be Cicero's main message in this dialogue.

That Cicero considered his text itself to be emblematic of the epistemological problems it describes can perhaps be confirmed by a further comment in the letter to Atticus in which he discusses this dedicatory letter to Varro. Here he says: *o Academiam volaticam et sui similem* ('Oh the *Academica* [lit: "the Academy"], so changeable and similar to itself!' *Att.* 13.25 = 333 SB). The point here seems to be that, following the numerous revisions he has made to the text, the form of the *Academica* itself now reflects the philosophical method of the New Academy, in that its proponents constantly flit from one argumentative position to another, testing the plausibility of each before adopting (albeit provisionally) any particular view. In writing the *Academica*, then – or, at least, in the final stages of its revision – Cicero seems to have been thinking about the significant similarities between the literary form of his dialogue and the philosophical position for which it argues.[62] It would not, then, to be too much of a stretch to think that Cicero may be asking his reader to do the same in his dedicatory letter.

If we do adopt this reading, we are rewarded with a plausible explanation for the particular emphasis on characterisation, scene-setting, and dramatic embellishment in the *Academica*, which fits in with the remains of

[62] The two editions of the *Academica* may also add to its attraction as an illustrative example in support of Cicero's epistemological scepticism. Another important counter-example used by the Sceptic to attack the Stoic/Antiochian account of the cataleptic impression is the indistinguishability between twins (*Luc.* 84). There are now 'twin' editions of the *Academica*, and there seems to have been some confusion as to which was the 'real' *Academica* among Cicero's readers: see Gurd (2007).

the text as we have them: namely, that these all work together to produce a literary *enargeia* which creates in the mind of the reader vivid impressions that have the same quality as those produced through sense perception, and so undermine the Stoic/Antiochian reliance upon 'evidentness' as a criterion for distinguishing false from true impressions. Failing that, our discussion of Cicero's emphasis on characterisation and use of oratorical devices should at least go some way to dispelling the pervasive opinion that Cicero's dialogue form is mere window dressing which the reader can safely ignore without doing any disservice to the text. In the *Academica*, at least, the employment of the *mos dialogorum* seems to be an essential part of Cicero's project.

CHAPTER 4

Nos in diem vivimus
Cicero's Approach in the Tusculan Disputations

Geert Roskam

4.1 A Remarkable Claim

In the final book of his *Tusculan Disputations*, Cicero tries to demonstrate that virtue is of itself sufficient for a completely happy life. To that purpose, he largely adopts a Stoic perspective, while criticizing the positions of Epicurus and of Peripatetics such as Theophrastus. Cicero's anonymous interlocutor is inclined to agree, though not without confronting Cicero with a charge of inconsistency. As a matter of fact, Cicero has argued in one of his previous books (*De finibus* book 4) that there is no real difference between the Stoic and the Peripatetic view and that the whole controversy between the two schools on this point can be reduced to terminological issues. In short, Cicero's attack on Theophrastus in the fifth book of the *Tusculan Disputations* is inconsistent with what he has defended in *De finibus* book 4. Challenged on this point by his interlocutor, Cicero (as principal speaker) replies (*Tusc.* 5.33):

> You are confronting me with sealed documents, and putting in as evidence what I have sometime said or written. Take that way with other people who are handicapped in argument by rules: I live from day to day; I say anything that strikes my mind as probable; and so I alone am free.[1] (trans. King)

This is a striking statement, to say the least. At first sight, it is also frustratingly unsatisfactory from a philosophical point of view.[2] Are we to conclude that Cicero is simply swayed by the issues of the day, that

[1] *tu quidem tabellis obsignatis agis mecum et testificaris quid dixerim aliquando aut scripserim. cum aliis isto modo, qui legibus impositis disputant: nos in diem vivimus; quodcumque nostros animos probabilitate percussit, id dicimus, itaque soli sumus liberi.* All translations of passages from *Tusc.* 1, 2 and 5 are taken from King (1945), while Douglas (1985) and (1990) have also been consulted; for *Tusc.* books 3 and 4, I use Graver (2002a).

[2] Cf. e.g. Koch (2006: 179): 'Ciceros Antwort wirkt schwach …. Die so geschilderte Freiheit wirkt aber eher wie ihre eigene Perversion als Unberechenbarkeit'; cf. also Clarke (1956: 64, partly quoted in Douglas, 1990: 151) on Cicero's philosophical works in general: 'there are changes of mood which leave us bewildered, and an indifference to consistency which verges on irresponsibility.'

he says anything that comes into his head?[3] An alternative is to regard Cicero's words as a kind of joke,[4] but even so, Cicero all too easily gets rid of the interlocutor's objection. Such humor may season the conversation, no doubt, but it hardly contributes to the search for the truth; indeed it interferes with it. Ascribing Cicero's statement to his philosophical eclecticism is not very helpful, for how should such a label then be understood? Even in his last work *De officiis*, we see Cicero still wavering between the position of the Stoa and that of the Peripatos (*tum hoc tum illud probabilius videtur*, *Off.* 3.33). This shows that Cicero has to the very end of his life struggled with this issue. Görler's *Stufenschema* definitely casts interesting light on Cicero's lifelong hesitation,[5] without, however, fundamentally *explaining* the tensions. We still end up with the simple observation that Cicero continues to drift between two poles. Is his phrase *nos in diem vivimus*, then, merely a clever rationalization of a fundamental uncertainty?

A close reading of the passage provides us with a first important hermeneutic key: Cicero claims to opt for what he considers the most persuasive alternative. This preference for *probabilitas* thus connects the phrase *in diem vivere* with Cicero's Academic philosophy, which enables him to carry on the debate without pinning himself down to any one position. And this objective also secures his freedom. All this suggests that Cicero's notorious statement is more than a simple joke: It is a kind of motto that Cicero indeed seriously endorses. Academic philosophy, then, constitutes the general theoretical framework for the attitude of *in diem vivere*.

This philosophical framework is also important for *Tusculan Disputations* as a whole.[6] On five successive days, Cicero argues against five different tenets, always selecting those arguments that best serve his purposes and that he regards as most plausible. In this sense, *in diem vivere* points to an approach that characterizes the whole work. On each individual

[3] Cf. Plutarch's polemical remark about Chrysippus in *On Stoic self-contradictions* 1047B.

[4] Thus Schofield (2008: 83): 'he brushes the objection off with a joke that evokes thoughts of the "careless scepticism of Philo"'; cf. Lefèvre (2008: 154): 'Cicero … verteidigt sich humorvoll mit der Freiheit des Denkens als Skeptischer Akademiker'.

[5] Görler (1974: esp. 206). Görler argues that three different levels can be distinguished in Cicero's thinking. The lowest level, which is usually connected with Epicurean philosophy, basically focuses on the material world and is quite down-to-earth and averse to abstraction. This level is usually rejected by Cicero. The highest level concerns lofty ethical ideals (often, though not exclusively, associated with Stoicism); in between is a more moderate position (linked to the Academy and the Peripatos) that takes into account reasonable common sense. As Görler shows, Cicero often seems to vacillate between the highest and the intermediate level.

[6] See e.g. Görler (2004: 214–17); *contra* Gildenhard (2007: 226).

day, Cicero indeed uses any material that fits in with the context of the discussion and contributes to his argumentative goals. This point, in my view, is of paramount importance for a correct interpretation of *Tusculan Disputations*. The work presents itself primarily as a dialogue within the tradition of Academic philosophy. It contains a theoretical discussion of the degree of persuasiveness of different views and is in that respect substantially in line with Cicero's other philosophical dialogues.

This philosophical stance, however, represents only one dimension of this rich work.[7] Cicero smoothly connects his Academic approach, here as elsewhere, with a rhetorical one. Much has been written about the perfect symbiosis of rhetoric and philosophy in Cicero's works,[8] and about the rhetorical character of *Tusculan Disputations* in particular.[9] The work is indeed twice characterized as a *senilis declamatio* (*Tusc.* 1.7 and 2.26).[10] This adds a new dimension to the ideal of living from day to day. The *in diem vivere* of Cicero the Academic philosopher, who defends one position one day, another the next, is not so different from the *in diem vivere* of Cicero the advocate, who one day defends client X and a couple of months later vehemently attacks X's friend Y.[11]

Furthermore, this philosophical-rhetorical versatility no less recalls the attitude of Cicero the politician who is willing to compromise and even to embrace former enemies if he can benefit from it.[12] Rhetoric, politics, and philosophy are all part and parcel of Cicero's personality. Our all-too-frequent attempts to distinguish between them entail partial interpretations that unduly emphasize one aspect of Cicero's works, reflecting our own interests to the detriment of a holistic understanding.[13] By reconciling all these aspects in his own person, Cicero thus far surpasses the limitations of his commentators.

[7] See Koch (2006: 18–27) for a general overview of interpretations of the *Tusculan Disputations*. To be added is the recent idiosyncratic reading of Altman (2016 – a revised version of Altman, 2009), who regards the work as Cicero's literary tribute to his daughter Tullia, who gave her life for her child and thus showed 'womanly humanism'.

[8] See e.g. Michel (1973), Smith (1995), Haltenhoff (2000), and Leonhardt (1999: 89–95, with further references).

[9] See e.g. Michel (1961), MacKendrick (1989: 164), Görler (2004: 236–9), Gildenhard (2007: 152–6), and Lefèvre (2008: 23–7 and 267–81). A literary interpretation of *Tusculan Disputations* can be found in Seng (1998).

[10] Gildenhard (2007: 16–17).

[11] Cf. Haltenhoff (2000: 231).

[12] Fulkerson (2013).

[13] For a political interpretation of *Tusculan Disputations*, see esp. Gildenhard (2007) and Lefèvre (2008: 19–23 and 213–39). On the relation between philosophy and politics in Cicero's thinking, see e.g. Görler (2004: 158–71) and Algra (2003). For rhetorical interpretations, see note 9 above.

All this means that Cicero's *in diem vivere* should be understood in light of his entire character. It should not be disparaged as the unthinking eclecticism of a philosophical dilettante. Instead, we should regard it as the virtuoso art of accurately responding to the demands of a particular situation and creatively using his rich experience as a philosopher, orator, and politician to deal with the matter at hand. It is, to use a fashionable term, the art of cleverly mobilizing his rich 'cultural capital'. This charitable interpretation, however, though in my view basically correct, is not the end but rather the beginning of a better understanding of the ideal of *in diem vivere*. Such an understanding indeed requires a much more detailed study of Cicero's working method in his philosophical works and particularly in the *Tusculan Disputations*. It requires a systematic and painstaking analysis of the different argumentative strategies and methods that Cicero uses; in brief, an analysis of the whole dynamics of his reasoning on both the micro- and the macro-level.

In this essay, I would like to make a start on such an analysis by examining how Cicero directs the conversation in the *Tusculan Disputations*. What kind of arguments does he use in what contexts, and how does his choice reflect his *in diem vivere* approach? It will be shown that Cicero repeatedly uses the same arguments in different ways and for different purposes, and that this practice sometimes creates tensions, even inconsistencies, not merely between the *Tusculan Disputations* and other works but also between the different books of the *Tusculan Disputations* and even within one and the same book. A better understanding of Cicero's method of working may throw a new light on these tensions. If Cicero indeed 'lived from day to day', he rarely if ever did so unthinkingly. He was neither a careless eclectic writer nor a slavish parrot of earlier *Quellen*, but an intelligent thinker who deliberately selected those arguments that would enable him to 'carry the day'.

Within the constraints of this chapter, it is impossible to provide a full discussion of Cicero's argument in the five books of *Tusculan Disputations*. I therefore prefer to focus on four elements that are of direct relevance for the *in diem vivere* approach, and moreover confine myself to several representative examples.

4.2 The Argument from Common Sense

In many of his works, Cicero supports his view by means of common-sense opinions. Such arguments from common sense can indeed frequently be found in both his speeches and his philosophical dialogues. They reflect

the sober-minded outlook of the advocate who strategically appeals to the widespread opinions of his audience but no less of the Academic skeptic philosopher[14] who is keen to undermine high-minded theoretical ideals through down-to-earth observations. Such arguments also occur in the *Tusculan Disputations*.

In *Tusc.* 2.29–30, for instance, Cicero refers to the Stoic theoretical approach to pain and dryly observes that Stoic doctrine, according to which the only evil is moral evil, does not do away with the thing that causes distress. The belief that pain is indifferent does not remove pain. All this, in short, comes down to mere rhetoric (*copia verborum*) or wishful thinking (*optare hoc quidem est, non docere*). Here, Cicero obviously adopts the perspective of common sense which never loses contact with reality and which is not misled by either rhetoric or high-flown philosophical tenets. A similar position is also adopted by Cicero's interlocutor at the beginning of book 5. When Cicero argues that virtue is sufficient for the happy life and that the good man is happy even on the rack, his conversation partner is not impressed at all: While agreeing that Cicero's discourse on virtue can evoke splendid visions, he asks what remains of these visions when he transfers his soul to the truth of real life (*ad rem veritatemque*, *Tusc.* 5.14). Again we find the same focus on clear matters of fact.

Common sense, then, is often an important argument. It has even been regarded as the criterion that determines Cicero's choice in his 'life from day to day'. Glucker comments:

> Could one adduce from this that, at least for Cicero, what accords better with what happens in real life – even where it may be logically inconsistent – is more *probabile* or *veri simile*? Since neither [Balbus's views nor Cotta's arguments in *De natura deorum*] can be taken as *the* truth, perhaps what one prefers as 'more *like* the truth' could be what is more like the simple facts of observable life. Is that Cicero's point? I wish we were told.[15]

But we are nowhere told. And as a matter of fact, it is not as simple as that, for Cicero can equally well defend the Stoic paradoxes, and these are obviously at odds with the 'simple facts of observable life'. And yet, Cicero's argument in his *Paradoxa Stoicorum* is more than just a rhetorical piece of bravado. In this work too, he is looking for germs of the truth. Common sense, then, is not a general criterion that always conditions Cicero's *ad hoc* choice in his 'life from day to day'.

[14] Brittain (2005: esp. 204–9).
[15] Glucker (1995: 137).

This also appears from the discussions in the *Tusculan Disputations*, where Cicero more than once defends a view that runs counter to common sense. In *Tusc.* 3.68, for instance, he accepts, for the sake of the argument, the counter-intuitive Stoic position that everybody who is not perfect is utterly wicked. The same view is ridiculed in his *Pro Murena* (61), where Cicero takes full advantage of the common sense convictions of his uncultivated audience,[16] and in *De oratore*, where the doctrine is regarded as useless in public life (*De or.* 3.65). Moreover, it is criticized at great length in the fourth book of *De finibus* (4.64–8 and 4.74–7). In the *Tusculan Disputations*, however, common sense is bracketed for a while, and not just once, for in *Tusc.* 4.54, the same view returns and is even supported by a brief comparison: All fools are insane – like all bogs stink. Quite a down-to-earth perspective indeed. And Cicero's argument becomes even more concrete: 'Not always! But disturb the bog, and you will smell it'. And thus, the extreme Stoic position even gains the support of an argument from common sense. These passages from the *Tusculan Disputations* recall the rhetoric of the *Paradoxa Stoicorum*, but are diametrically opposed to the anti-Stoic polemic of *De finibus*. This tension results from Cicero's practice of *in diem vivere*, but the example clearly shows that this practice is not always dictated by a concern for common sense. Rather, the opposite is true: It is the specific context of the day that determines whether a common-sense position can be defended and even what should be regarded as commonsensical.

The next two examples make this even clearer. In book 3, Cicero deals with the opposite strategies of Epicurus and the Cyrenaics in coping with pain.[17] Whereas the latter argued that we should anticipate unforeseen misfortunes through a 'pre-rehearsal of future evils' (*praemeditatio futurorum malorum*, *Tusc.* 3.29), the former rejected such behavior as foolish. For by continuously thinking about possible evils, which will probably never occur, a man needlessly mars his whole life (*Tusc.* 3.32). This is a sensible argument indeed, and we would be inclined to think that Epicurus's view is here supported by common sense. Cicero objects that continuous reflection about our human limitations need not result in sadness but rather brings wisdom and consolation (*Tusc.* 3.34). This may well be correct, but the question remains of course as to how this *praemeditatio* should

[16] As he acknowledges himself in *Fin.* 4.74–5 (*apud imperitos tum illa dicta sunt; aliquid etiam coronae datum*).

[17] A good discussion can be found in Graver (2002b); cf. Graver (2002a: 96–106) and Rabbow (1954: 160–75 and 281–3).

be understood. If this is done on a quite systematic basis and becomes a daily routine,[18] a person indeed risks forgetting to enjoy the pleasures of life, and this, of course, would ruin his happiness from an Epicurean point of view. Epicurus was no doubt sober-minded enough to know the *condition humaine* and to deal with its unavoidable pains and sufferings, but he could do that without uninterruptedly applying all possible misery to himself. In that sense, his alternative technique of *avocatio*, which consists in 'calling the soul away' from the thought of suffering, is definitely a sensible and commonsensical approach. The complement of *avocatio*, however, the *revocatio* or 'recalling' of the soul to the contemplation of pleasures, is less evident. Here, Cicero makes the pertinent point that in misfortune, we are often unable to forget the source of distress or to redirect our mind to pleasures. The circumstances hardly allow us to breathe. This objection is no less sensible indeed, and is corroborated by everyday experience. Here Cicero may well speak from personal experience (*experto crede*!), as the death of his beloved Tullia was still fresh in his mind. Epicurus's common sense is here replaced by Cicero's common sense.[19]

In *Tusc.* 2.17, Cicero refers to Epicurus's conviction that the sage is even happy in the bull of Phalaris. This position is presented – or better polemically misrepresented[20] – in all its radicalness: The Epicurean sage will not merely endure it, but even regard it as sweet (*quam suave est*). This is utterly unconvincing for Cicero: such a power he does not attribute to virtue (*Tusc.* 2.18). For him, it is sufficient if we bravely endure pain. This is once again Cicero's rhetoric of common sense, in reply to Epicurus's all too radical rhetoric of philosophical protreptic. Cicero, in short, is reasonableness personified. As we saw, basically the same position is endorsed by his interlocutor at the beginning of book 5: He too believes that the wise man cannot be happy on the rack (*Tusc.* 5.14). Somewhat later in the discussion (*Tusc.* 5.73), however, Cicero returns to Epicurus's position, and then he strikes a rather different note. Even Epicurus, the champion of pleasure, so Cicero exclaims, argues that the sage is happy on the rack. Although Cicero here remains skeptical as well, his skepticism no longer concerns the doctrine itself but its author. He now underscores Epicurus's inconsistency and develops this into an *a fortiori* argument: If even a man

[18] See esp. *Tusc.* 3.34 (*perpetua in omni vita cogitatio*); cf. *Tusc.* 3.30 (*penitus et pertractatas res humanas habere*) and 3.32 (*qui … semper cogitavisset*).

[19] Later in the *Tusculan Disputations*, however, Cicero still makes use of the Epicurean technique of *avocatio*; see *Tusc.* 4.74, and Graver (2002a: 180) for parallels with Epicurean philosophy.

[20] Cf. Lefèvre (2008: 66–7).

like Epicurus defends such a position, the other philosophers cannot stay behind (*Tusc.* 5.75):

> For my part, I should say, let the Peripatetics also and the Old Academy make an end some time or other of their stuttering and have the courage to say openly and loudly that happy life will step down into the bull of Phalaris.[21] (trans. King)

No trace here of any concern for common sense: Such concern is even dismissed as *balbutire*. Cicero now quite emphatically (*me … auctore*) advocates a straightforward radicalness characterized as intellectual bravery (*audeant*). What one day is praised as sensible common sense, is another day replaced by bold philosophical ideals that are at odds with common sense. This, again, is a striking example of *in diem vivere*. While the two positions are irreconcilable, both yield philosophically interesting results. This also illustrates the dynamic character of the *in diem vivere* attitude, which is not limited by a concern for common sense or for the 'simple facts of observable life'. The common sense of one day can be easily replaced by the opposite common sense of another day or by the non-commonsensical opinion of a third day.

4.3 Dignitas and Decorum

A similar versatility can be found in Cicero's use of arguments that are based on the demands of dignified and appropriate conduct. This calls forth a whole cluster of ideas related to the *mos maiorum*,[22] to socially accepted behavior, to *decorum* and *dignitas*. Again, we thus come across a kind of argument that is omnipresent in Cicero's oeuvre and that plays an important part in the *Tusculan Disputations* as well.

Especially book 2 is relevant in this context. There, Cicero time and again underlines that we should deal with pain in a decent, dignified way. A man who is concerned about his honor (*honestas*), nobility (*dignitas*), and high esteem (*decus*) does not groan, shriek aloud, wail, break down, or become unnerved (*Tusc.* 2.31). He should not cry out like a woman but endure pain firmly and calmly (*Tusc.* 2.46). He should avoid cowardly, slavish, and effeminate behavior. Shrieking is not allowable, not even for a woman, and is forbidden in the Twelve Tables (*Tusc.* 2.55; cf. *Leg.* 2.59). The sage will not even groan, except in order to strengthen his steadfastness

[21] *me quidem auctore etiam Peripatetici veteresque Academici balbutire aliquando desinant aperteque et clara voce audeant dicere beatam vitam in Phalaridis taurum descensuram.*

[22] See esp. van der Blom (2010); cf. also Blösel (2000: 68–85).

(*Tusc.* 2.56). In any case, nothing is more disgraceful for a man than womanly weeping (*Tusc.* 2.57). Such concern for proper, manly behavior is a continuous refrain throughout book 2, but it also appears in other books, often at crucial places. In *Tusc.* 5.34, for instance, immediately following the key passage about *in diem vivere* quoted above, Cicero kindly points to the glory (*gloria*) of Brutus's position, and at the very end of the work, he characterizes the conviction that the sage is always able to live a happy life as a view that is worthy (*dignum*) of the utterance of philosophers (*Tusc.* 5.120). Honor and dignity, then, are important criteria for Cicero,[23] and this may even have influenced his preference for the Stoic position in many books of the *Tusculan Disputations*. As Margaret Graver has pointed out, Cicero did not write *in vacuo*. His own emotions were scrutinized by other aristocrats, and in siding with the Stoics, he made a demonstration of intellectual bravery and manliness.[24] His leanings toward Stoicism, in other words, also contributed to his image building. And this self-presentation is even more necessary in view of the fact that, by impersonating the learned schoolmaster, he has already adopted a position that could be seen as inconsistent with the gravity of a *consularis*.[25]

All this might suggest that Cicero's concern for *decorum* and *dignitas* to a certain extent interferes with his ideal of *in diem vivere*, or at least curtails its opportunities. For whatever position Cicero chooses to defend one day, it should in any case be in line with what is socially acceptable. In other words, *in diem vivere* is conditioned and restricted by social *decorum*. On closer inspection, however, the matter is again more complicated, as concern for *dignitas* and *decorum* is apparently not always equally decisive. I confine myself to two examples.

When Cicero begins to argue for the survival of the soul after death, he refers to the authority of the ancients (the *casci*) and of the pontifical law and rites of burial (*Tusc.* 1.26–7). Cicero here gives free rein to his eloquence to introduce the venerable old tradition as an *argumentum ex auctoritate*. Here we enter the domain of the *mos maiorum*. Further on in the dialogue, the alternative view is discussed as well: What if the soul is annihilated at the moment of death? Are these rites of burial still meaningful? In that context, Cicero refutes many unjustified and irrational customs that can be found in the poets and among foreign peoples (*Tusc.* 1.102–8). The attitude of Socrates or Diogenes, who were not concerned

[23] Cf. Maso (2009) on the phrase *dignitatem tueri* in Cicero's works.
[24] Graver (2002a: xii–xiv).
[25] See on this Gildenhard (2007: 8–17).

at all about what would happen with their body after their death, is much more correct. Yet Cicero shrinks from the radical consequences of such an approach (*Tusc.* 1.108–9):

> This whole subject then must be treated with contempt as regards ourselves, but not ignored in the case of those connected with us – with this proviso, however, that we, the living, are conscious that the bodies of the dead have no consciousness. Let the living, however, attend to funeral observance to the extent to which they must make a compromise with custom and public opinion, but with the understanding that they realize that in no way does it concern the dead.[26] (trans. King)

This is a remarkable passage. At first sight, Cicero appears to confirm the importance of social *decorum*, by arguing that our external behavior should conform to it, even if this implies that our conduct is at odds with our theoretical insights. Yet social *decorum* no longer contributes to the philosophical argumentation about death. Cicero indeed makes it very clear that such 'appropriate' conduct is not rooted in correct theoretical insights about death. Thus he ends up with a difficult straddle, keeping up outward appearances while concealing his sincere convictions. This, we may recall, is precisely what he repeatedly blames Epicurus for in *De natura deorum* (1.123 and 3.3; cf. also *Fin.* 2.21). But what is especially important in our context is that Cicero's concern for social *decorum* here does not determine his choice of philosophical view. Social *decorum* is rather a recalcitrant element that up to a certain extent resists the point of view that has been adopted. Cicero is prepared to take it into account, but does not fundamentally change his position. If, then, 'living from day to day' indeed involves the freedom to say anything that strikes one's mind as persuasive (*Tusc.* 5.33), this theoretical persuasiveness is not entirely defined by the demands of socially appropriate conduct.

On top of that, Cicero can even agree with thinkers who are radically opposed to the venerable and dignified tradition. Epicurus immediately comes to mind of course.[27] Cicero very often rejects his hedonism, including in the *Tusculan Disputations*, but in the same work, he also agrees with Epicurus on several central points. In the second part of book 1, for instance, his elaborate discussion of the view that the soul dies with the

[26] *totus igitur hic locus est contemnendus in nobis, non negligendus in nostris, ita tamen, ut mortuorum corpora nihil sentire vivi sentiamus. quantum autem consuetudini famaeque dandum sit, id curent vivi, sed ita, ut intelligant nihil ad mortuos pertinere.*

[27] Cicero's criticism of Epicurus has often been studied. See esp. Maso (2015); more detailed studies of Cicero's arguments against Epicurus's moral and political thinking can be found in Inwood (1990), Stokes (1995), Leonhardt (1999: 89–126 and 191–212), and Roskam (2007: 49–69).

body is inspired by several Epicurean ideas. We have already seen how he takes advantage of Epicurus's belief that the sage is even happy in the bull of Phalaris. And more examples can easily be found. But what about the importance of social *decorum*? Can a distinguished *consularis* like Cicero simply neglect this altogether and without problem side with the vulgar hedonism of Epicurus? Not really! Cicero has found an easy solution to both have his cake and eat it:[28] He never grows weary of pointing to Epicurus's bad reputation (*Tusc.* 1.77, 2.3) and of reproaching him for his effeminate profligacy (*Tusc.* 2.15, 2.18, 3.37, 3.41–2, 5.73, 5.88; cf. 2.28), his limited intelligence (*Tusc.* 3.46, 5.93), and his inconsistency (*Tusc.* 3.47, 3.49, 5.26–7, 5.31), and only then adds that, in spite of all this, he still can be useful. All these negative characterizations of Epicurus are no less important for Cicero's image building than his endorsement of the 'brave and manly' Stoic perspective. They indeed help a lot in both maintaining his *dignitas* and illustrating his open-mindedness. At the same time, they enable Cicero to benefit from the rich tradition of Epicurean thinking. Once again, the demands of *dignitas* and *decorum* thus do not curtail the opportunities offered by a 'life from day to day'. Cicero himself associates the ideal of *in diem vivere* with freedom, and we indeed begin to see the scope and relevance of his claim.

4.4 The Use of Examples

Cicero is fond of working with concrete examples. They add much to the liveliness and literary qualities of his works, but they are also interesting from a philosophical point of view, since they often clarify the implications of specific doctrines or serve polemical purposes by confronting abstract theories with everyday life experiences. Such examples are obviously always chosen in view of the needs of Cicero's argument. In this respect, they are almost by definition in keeping with an attitude of *in diem vivere*. Cicero's selection of examples indeed directly depends on the needs of his argument, which implies that what qualifies as a good example in one context, may be highly problematic in another.

A case in point is Cicero's discussion of Epicurus's doctrine of pain in book 2. Epicurus thinks that extreme pain must be short (*K.D.* 4). Cicero objects that counterexamples are easy to find, not only in mythology (the case of Philoctetes; *Tusc.* 2.44) but also in everyday life: 'I can name a

[28] Cf. Görler (2004: 233–4); see also, for complementary strategies, Fotheringham (2007) on the *Pro Milone*.

number of worthy men who, according to their own account, have suffered tortures of pain from gout for several years' (*Tusc.* 2.45).[29] This is one more instance of a common-sense objection which suffices to brush aside the whole argument (*omittamus hunc igitur nihil prorsus dicentem*). Yet Cicero admits in passing that Epicurus showed a touch of bravery (*forticulum*) while suffering from severe pains. The reference is of course to Epicurus's saying on his deathbed.[30] At that difficult moment, the master of the Garden set himself an example of brave endurance of excruciating pains. This, however, is quickly dismissed[31] and a better solution is sought elsewhere (*aliunde igitur est quaerenda medicina*, *Tusc.* 2.45). We may conclude, then, that not all examples of bravery are apparently equally relevant. That their relevance, moreover, can change from day to day appears in book 5, where Cicero returns to the deathbed scene. There, he argues that Epicurus could overcome the severe pains by his memory of his discoveries and even adds that Epicurus's words should not be downplayed as the babble of the moment (*Tusc.* 5.88). The same example that proved irrelevant in book 2 is now of paramount importance, and Epicurus is put on a level with the Stoics. The interval of a few days, and the exigencies of the different argument, makes a world of difference.

An analogous case is Cicero's discussion of the Stoic view of pain as being indifferent. In *Tusc.* 2.60–1, he tells two anecdotes. First the story of Dionysius of Heraclea, a Stoic philosopher who suffered from kidney troubles and as a result left the school, having learned by experience that pain was an evil. In itself, this is an interesting example of a philosopher who is thoroughly familiar with theoretical school doctrine but is then refuted by concrete reality. As such, the anecdote is a goldmine for anybody willing to attack the unworldly thinking of the Stoics, and Cicero could have used it for his anti-Stoic polemics in *De finibus* book 4. Here, however, anti-Stoic attacks are counterproductive and Dionysius is rather introduced as a negative example of the weak and inconsistent philosopher. From the very beginning, he is characterized as 'a person certainly of little resolution' (*homo sane levis*), but this, of course, is just one possible interpretation. In other contexts, we could equally well praise him for his sober-mindedness, his common sense and his realism. Here, the negative example of Dionysius is countered by another example, namely the excellent conduct of Posidonius who keeps loyal to the doctrine and succeeds in conquering pain.

[29] *multosque possum bonos viros nominare, qui complures annos doloribus podagrae crucientur maximis.*
[30] See Diog. Laert. 10.22 and Cic. *Fin.* 2.96; cf. Warren (2004: 165–7).
[31] Also through the strategic use of the term *forticulus*, a 'disparaging diminutive' (thus Douglas, 1990: 72).

The above examples show how the selection and interpretation of examples is thoroughly conditioned by the needs of the particular day's argument. One last case, taken from book 5, is illustrative rather of creativity and openness. At a certain point in the conversation, Cicero opposes several examples (*Tusc.* 5.54–66). Laelius is contrasted with Cinna, Marius with Catulus. The series then culminates in an elaborate opposition between Dionysius of Syracuse and Archimedes. This comparison, however, is somewhat artificial, and Cicero knows this himself. He says that he does not opt for Plato or Archytas as the positive counterpart of Dionysius, but for 'an obscure man from the same city' (*ex eadem urbe*), who lived many years later (*Tusc.* 5.64). Although the fact that both men were living in the same city gives the comparison an extra poignancy, Cicero's choice of Archimedes is not really based on a geographical criterion. What follows is a lively story about how Cicero rediscovered Archimedes's tomb. This, in other words, is primarily a story about Cicero, rather than about Archimedes.[32] Moreover, this story also has political overtones: As Cicero's wonderful achievements lurk behind the figure of Archimedes, Dionysius's hateful tyranny recalls that of Caesar.[33] Cicero characterizes the whole passage as a digression (*sed redeat unde aberravit oratio*, *Tusc.* 5.66),[34] but this need not imply that he there deals with a trivial point. For the time being, the example rather comes to the fore and determines itself the theme of the conversation. This use of examples also reflects an attitude of *in diem vivere*, but in another sense: The example does not merely follow the agenda of the day by giving a concrete illustration of it, but rather sets the agenda itself.[35]

4.5 Asking the Correct Questions

Up to now, we have seen how Cicero creatively adapts his arguments to the issue of the day. We now need to consider how different questions entail different assessments of the available material and sometimes the defense of a different philosophical position. Recognition of the framing question may go a long way toward explaining apparent tensions and inconsistencies. Cicero himself insists on this point when explaining the apparent inconsistency between the positions he defends in book 5 of the

[32] Cf. Jaeger (2002: 54–6) and Verbaal (2005/6: 154).
[33] Jaeger (2002; 2008: 32–47), Verbaal (2005/6); cf. Lefèvre (2008: 161).
[34] Douglas (1990: 156) regards the story about Cicero's discovery as 'a pleasing, but … completely irrelevant, anecdote'.
[35] Something similar has been argued for book 3 of *De officiis*; cf. Dyck (1996: 495–6).

Tusculan Disputations and in book 4 of *De finibus*. Invoking the *in diem vivimus* principle, he writes (*Tusc.* 5.33):

> I live from day to day; I say anything that strikes my mind as probable; and so I alone am free. All the same, as we spoke a little while back about consistency, I do not consider that the question to be asked at this point is whether the view accepted by Zeno and his pupil Aristo is true, namely, that only what is right is good, but supposing it were true, then how was it that he based the entire possibility of living happily upon virtue alone?[36] (trans. King)

Whereas in the previous work he had inquired whether the Stoic position is true, the present discussion starts from the hypothesis that it is true. The two books thus deal with different philosophical questions, and the argument proceeds accordingly. In other instances as well, we can see how the nature of the question under discussion conditions Cicero's general argument.

In the *Tusculan Disputations*, the central question is always put on the table by Cicero's anonymous interlocutor (*Tusc.* 1.7–8, 2.13, 3.7, 4.8, 5.11). The freedom of Cicero's *persona* thus does not include proposing the subject for discussion.[37] His freedom rather concerns his ability to discuss every topic in an appropriate way. The point is made explicit in an interesting passage in book 5. After Cicero has presented the Stoic position, his interlocutor recognizes that he cannot come up with a better suggestion but asks Cicero to defend also the view of the Peripatos and the Old Academy (*Tusc.* 5.82):

> I have no better suggestion to offer for my part, but there is a favor I should like to obtain from you, if it is not troublesome (seeing that you are not hampered by being tied to any definite school of thought, and taste from all of them everything that strikes you most as having the semblance of truth), as a little while back you appeared to be urging the Peripatetics and the Old Academy to have the courage to say freely without reservation that wise men were always supremely happy, this is what I should like to hear, how you think it is consistent for them to say so.[38] (trans. King)

[36] *nos in diem vivimus; quodcumque nostros animos probabilitate percussit, id dicimus, itaque soli sumus liberi. verum tamen, quoniam de constantia paullo ante diximus, non ego hoc loco id quaerendum puto, verumne sit quod Zenoni placuerit quodque eius auditori Aristoni, bonum esse solum quod honestum esset, sed, si ita esset, tum ut hoc totum, beate vivere, in una virtute poneret.*

[37] In this respect at least, Cicero the author does not coincide with the *persona* of Cicero as one of the conversation partners in the dialogue.

[38] *melius equidem adferre nihil possum, sed a te impetrarim libenter, ut, nisi molestum est, quoniam te nulla vincula impediunt ullius certae disciplinae libasque ex omnibus quodcumque te maxime specie veritatis movet, quod paullo ante Peripateticos veteremque Academiam hortari videbare, ut sine retractatione libere dicere auderent sapientes esse semper beatissimos, id velim audire, quem ad modum his putes consentaneum esse id dicere.*

This is to say that even when a different line of argumentation is proposed, Cicero's Academic freedom should enable him to comply with the request. It is my contention that the flexibility of approach articulated here actually holds true for the work as a whole. The dialogic framing of the *Tusculan Disputations* thus allows these five days of conversation to appear as five examples of *in diem vivere*.

Yet also on the level of asking the question, this attitude of *in diem vivere* proves much more dynamic than appears at first sight. Cicero almost never accepts the topic for discussion unquestioningly, but rather examines and reorients it in several ways. In book 1, for instance, a relatively short dialectical discussion[39] shows which questions are important and which can be neglected without further ado. The silly fear of *post mortem* punishments as described in mythological accounts hardly deserves mention, and those philosophers[40] who have treated this question at length have merely wasted their time, for 'who is so stupid as to be influenced by such stories' (*quis enim est tam excors, quem ista moveant?*, *Tusc.* 1.11)? Through the next argumentative steps, Cicero and his young interlocutor make further progress in specifying the question: It is not whether the dead are unhappy, but whether we, the living, are made less happy by the prospect of death (*Tusc.* 1.14, 1.26). Thus the philosophical question is gradually refined, until Cicero reaches the point at which he can begin to develop his argument.[41] And after having discussed the topic of the soul's immortality, he himself turns to the alternative view. For his interlocutor, this new issue is not really necessary, for he repeatedly and quite emphatically expresses his firm belief in immortality (*Tusc.* 1.77–8), but he at least allows Cicero to continue. It is clear, then, that in book 1, the original topic for discussion comes from the interlocutor, but that it is Cicero's own character who sets the agenda.

The same is true for the other books as well. In the second book, the initial position of the interlocutor (pain is the greatest of all evils) is immediately undermined by one strategic question of Cicero: 'even greater than disgrace?' (*Tusc.* 2.14). This challenge, which recalls the argument from *decorum* (see Section 4.3 above), entails a considerable modification and limitation of the thesis. Even before the conversation starts, Cicero has

[39] See esp. Gorman (2005: 73–4 and 179–90) and Gildenhard (2007: 207–30).

[40] Cicero is primarily thinking of the Epicureans, who indeed tried to free their readers from such unjustified fears; cf. e.g. Lucretius, *DRN* 3.978–1023; Diogenes of Oenoanda, fr. 73.I.1–II.1; Sen. *Ep.* 24.18; Cic. *Nat. D.* 1.86.

[41] The preliminary moves in the conversation of book 1 have been helpfully analysed by Warren (2013). See also Roskam (2019 : esp. 121–4).

already scored a significant success and modified the starting point for further discussion.

A somewhat different approach can be found at the outset of book 3, where Cicero rather radicalizes the view of his interlocutor. The latter indeed at first merely states that the sage is susceptible to distress, but is then quickly persuaded by Cicero to make the much more radical claim that the wise man is in fact subject to all emotions (*Tusc.* 3.7). Accordingly, Cicero promises to go a step further (*progrediar quidem longius*, *Tusc.* 3.13) and deal not only with distress but with every emotion – as indeed he will proceed to do in book 4. The interlocutor thus gets much more than he has asked for. A similar device is employed in book 5, where the interlocutor asks for the position of the Peripatos and the Old Academy (*Tusc.* 5.82) and gets a discussion of all the remaining schools (*Tusc.* 5.84).

Finally, Cicero sometimes also subtly reorients the scope of a question by unmasking what is really at stake. In book 4, for instance, he points out that his interlocutor's words about the sage might have to do more with himself (*Tusc.* 4.58), and for that reason turns to the efficiency of philosophical therapy. 'So all my discourse should now be addressed to you. You may pretend to be inquiring about the wise person, but your real inquiry, perhaps, is about yourself' (*Tusc.* 4.59).[42]

In all of these cases, then, Cicero makes a show of doing more than simply replying to the topic that is proposed to him. He rather reorients the questions in different directions, while bearing in mind his own purposes. And here too, the argumentative skills of the experienced orator largely coincide with those of the Academic philosopher. We can infer that Cicero's *in diem vivere* principle amounts to more than creatively dealing with topics or questions supplied by others. In this work, the philosopher reformulates the question he wants to answer and so actively 'creates the day'.

The above case studies throw light on what an attitude of *in diem vivere* precisely means. While it should definitely not be regarded as an inconsiderate eclecticism that unthinkingly replaces one philosophical view by another one whenever it proves to be advantageous for whatever reason, it remains true that living from day to day implies a fair amount of pragmatism. It indeed reflects the opportunism of the orator who knows what he has to say in order to win the suit, of the politician who tries to

[42] *ad te igitur mihi iam convertenda omnis oratio est; simulas enim quaerere te de sapiente, quaeris autem fortasse de te.* See Lévy (2002: 90), who argues that Cicero, in a way, here also addresses himself; cf. also Zini (2018: 327): 'Tatsächlich handelt es sich um einen Dialog mit sich selbst, der als innerer Konflikt verstanden wird'.

reach his goals through compromises, and of the Academic philosopher who employs every available strategy to undermine the doctrines of other philosophical schools.

Yet *in diem vivere* is much more than opportunism. To a certain extent, it also manifests a sincere and open-minded search for the truth.[43] In all philosophical traditions, Cicero looks for germs of the truth. Some schools come up with more interesting doctrines than others: Here Görler's *Stufenschema* is again useful, though its implication should not be that the lower, less persuasive levels should be entirely discredited. Taking *in diem vivere* seriously is doing full justice to the 'zetetic' aspect of Cicero's philosophy. Cicero's 'thinking from day to day' is a continuous quest for the truth, to which all philosophical schools can contribute and in which even the least persuasive still offer precious insights that should not be ignored. In that respect, Cicero is more open-minded than is sometimes suggested. *In diem vivere* is, always again, judging the matter at hand in an unprejudiced way, without *a priori* commitments or rigid *pertinacia*,[44] in a sincere attempt to come closer to the truth.

4.6 Therapeutic Implications

There remains, however, one important question. We have seen that the attitude of *in diem vivere* is perfectly in line with the Academic perspective that constitutes the intellectual framework of *Tusculan Disputations*. But the work also has a therapeutic aspect. It is not the only one, of course, nor is it presented as the main key to a correct understanding of the work in the proems, but it cannot be overlooked. Near the end of book 1, Cicero admits that his speech has been so long because he also addressed himself (*Tusc.* 1.111) and in the very last sentence of the work, he again refers to his own troubles (*Tusc.* 5.121). The circumstances under which Cicero wrote the *Tusculan Disputations* are well-known of course: the death of his beloved Tullia still fresh in his mind, the failure of his second marriage, and his forced leisure under Caesar's dictatorship. The *Tusculan Disputations*, then, are also an attempt at self-consolation; as such, they are a therapeutic work.[45]

[43] This is also a recognizably Socratic stance and would therefore probably appeal to the Academy. Cf. Plutarch's discussion of Socrates's approach in *Quaest. Plat.* 999C–1000E, with the discussion of Opsomer (1998: 127–212).

[44] Cf. E. G. Schmidt (1995: 237 and 239) and Gorman (2005: 125–9).

[45] A point that has often been made; cf. e.g. Douglas (1995: 214), Erskine (1997), Schofield (2002: 103–5), Striker (2002: 178), Koch (2006: 58–60), Wöhrle (2010: 176), and Baltussen (2011).

This, however, raises a difficult question: Can an attitude of *in diem vivere* be reconciled with a coherent therapy? Does such a 'life from day to day', inspired by an Academic approach, not interfere with Cicero's therapeutic goals? Does such an attitude, which refuses to be pinned down about definitive truths and prefers to replace the *probabile* of one day by another *probabile* of the next day, not undermine our tranquillity of mind? If, indeed, tranquillity ultimately presupposes the endorsement of safe truths, Cicero's Academic therapy, in spite of all its rhetorical and intellectual virtuosity, may well be powerless.

This is not to say that Cicero is left empty-handed in this respect. First, *in diem vivere* does not imply total chaos. The interlocutor is often reminded of the results obtained in earlier discussions (e.g. *Tusc.* 4.8, 5.15, 5.17, 5.42, 5.48, 5.76). We can fall back on earlier progress and do not need to always start over again. In other words, the therapy can build on insights that surpass the particular context of the day. Second, while thinking over a specific problem, we can reach some basic insights on which different schools fundamentally agree. A case in point is Carneades's so-called reconciliatory argument, mentioned near the end of book 5 (*Tusc.* 5.120).[46] Another is the minimal certainty reached in book 1 that, whatever the truth about the survival or annihilation of the soul, death is no evil.[47] In that sense, caution regarding definitive and absolute truth-claims can perfectly be reconciled with an open-minded use of traditional therapeutic insights. We have seen that Cicero did not hesitate to use material from different schools (as he also did in his lost *Consolatio*; *Tusc.* 3.76): Sometimes the Stoics provide the best help, on other occasions the Peripatetics prove more useful, on yet another day Epicurus or the Cyrenaics may lend a helping hand. Third, Cicero often underlines that every reader should judge himself and make his own choice.[48] This is not an easy-going refusal to commit himself. Cicero rather takes seriously the autonomy of every reader and shows a willingness to take into account the individual character and situation of every single patient.[49] He offers in his *Tusculan Disputations* several possible courses, borrowed from different philosophical schools, and leaves it to his reader to decide on what course he would like to follow. Brutus, Cicero's dedicatee, will no doubt find much to suit his taste, even if he may perhaps not accept everything and even if he

[46] See esp. Schofield (2012b); cf. also A. G. Long (2015: 186–7).
[47] Cf. Görler (2004: 233–4) for more examples of this strategy.
[48] See e.g. Peetz (2005: 101) and Schofield (2008: 70–4).
[49] Cf. Koch (2006: 134–5).

certainly does not need to abandon his own philosophical conviction (cf. *Tusc.* 5.35: *ipse viderit*).

There remains a troubling inconcinnity between a philosophical approach that 'lives from day to day' and the objectives of ethical therapy as usually understood. In ancient psychotherapeutic writings, authors often aim at a reasonable and well-established disposition which gives a man's life a certain unity and coherence. Plutarch, for instance, regards consistency between words and deeds as an important indication for moral progress (*On moral progress* 84B–85B). The uniformity and continuity of our course (τὸ ἐνδελεχὲς καὶ τὸ συνεχές),[50] and the fact that there are no retrogressions or that periods of intermissions gradually yield to constant behavior, likewise show that we are making progress (*On moral progress* 76B–78A).[51] The ideal which such texts recommend seems diametrically opposed to that of *in diem vivere*.

By its very nature, the philosopher's psychotherapy is not the work of one day. Cicero's interlocutor often accepts Cicero's arguments far too quickly, as if a few days would really suffice to cure him from all his doubts and fears. The example of Dionysius of Heraclea discussed above already shows that theoretical insight is not enough to guarantee tranquillity of mind in all circumstances, and Cicero himself was not cured from his grief over Tullia's death in a couple of days. The interlocutor also tells that he has often read Plato's *Phaedo* and indeed found it convincing while reading, but that he afterward again began to doubt (*Tusc.* 1.24).[52] In this respect, Cicero is more successful than Plato, since his words do not merely convince his listener (*Tusc.* 1.55, 1.77, 1.112, 1.119) but also prove to convince him the next day (*Tusc.* 2.10).[53] Yet it is far from certain whether Cicero's eloquence will have a lasting effect. Life goes on; what will happen when the young interlocutor leaves Cicero's estate and is confronted a few weeks later with pain and fear? Will he altogether ignore this and live in perfect happiness, thanks to the theoretical arguments he heard in Tusculum? Quite unlikely! Life is not so easy; in Seneca's words: *laborandum est* (*Ep.* 50.5).

To this uninterrupted process of moral improvement, to the daily struggle against one's shortcomings, Cicero pays little attention in his

[50] Somewhat similarly, a constant refrain in both Epictetus and Marcus Aurelius's reflections is the demand to do nothing without plan (εἰκῇ). See e.g. Epictetus, *Disc.* 1.2.32, 2.9.4, 3.15.7, 3.22.52, 3.23.3 and 6; Marcus Aurelius, *Med.* 2.16, 2.17, 3.4.2, 4.2, 8.17, 9.28.1, 12.20 and 24.

[51] Roskam (2005: 247–55 and 320–35).

[52] The rational therapy of the Stoics is hardly more successful; see on this Graver (2002a: xxviii).

[53] See Schrenk (1994) and Gorman (2005: 185–9).

Tusculan Disputations. Of course, his interlocutor can always recall Cicero's reflections and thus try to overcome his fears from day to day. He can benefit from different therapeutic methods mentioned by Cicero,[54] he can use techniques of *praemeditatio* or *avocatio*, he can even reflect on Cicero's words by day and night (*quae meditare, quaeso, dies et noctes*, *Tusc.* 2.66) and further strengthen his disposition by training and habituation (*Tusc.* 2.40–1), but even so, this daily practice will never rest on one coherent and systematic philosophical view: It will always remain *in diem*. When people are building a rough wall, so Plutarch argues, it does not make a real difference if they throw an ordinary stone or a stele into the foundation (*On moral progress* 85F). But a man who really wants to make progress should take care that he puts every single stone in its correct place. This is the final challenge for Cicero's project in the *Tusculan Disputations*. He preferred to build its foundations with stones he took from different philosophical traditions, combining them more or less *ad hoc*, depending on the needs of the day. This yielded wonderful results on a micro-level, where the stones and steles were indeed often combined in a particularly clever way. But an architect who does not follow an overarching building plan risks erecting a building that lacks internal coherence. This is the high price Cicero had to pay for the virtuosity of *in diem vivere*.

[54] Cf. S. White (1995).

CHAPTER 5

Cicero the Philosopher at Work
The Genesis and Execution of De officiis *3*

Nathan Gilbert

De officiis has a special place in the Ciceronian corpus. It is Cicero's last, unfinished philosophical work and so – rightly or wrongly – there is a temptation to read it as his final word on ethics. Furthermore, Cicero boldly abandons his usual dialogue format and speaks in his own voice for the entire treatise. *De officiis* is also a crucial source for the history of Stoicism: It is our sole surviving example of a treatise on the Stoic concept of appropriate action (περὶ τοῦ καθήκοντος), a standard topic on which numerous non-extant works are attested to in the book catalogues of Diogenes Laertius and other sources.[1] *De officiis* therefore offers a tantalizing opportunity to see how more abstract Stoic arguments about virtue or happiness were applied to the complexities of everyday life. For this very reason, the work enjoyed a position of extraordinary influence in subsequent European thought, with a rich and varied reception history from antiquity into the early modern period and a robust number of printings in the Renaissance and beyond.[2]

There are good reasons, then, for paying close attention to this work. Unfortunately, it is not an easy text to interpret. Cicero explicitly states that he is following Panaetius's περὶ τοῦ καθήκοντος, but then immediately softens his claim by saying that he is not a mere translator and has reserved the right to apply his own judgment, his *iudicium*.[3] These

[1] See e.g. Diog. Laert. 7.4, 7.129, 7.175, 7.178 (Zeno, Posidonius, Cleanthes, and Sphaerus, respectively), along with a general survey of the topic at 7.107–10. See also the fragments of Hierocles preserved by Stobaeus (conveniently available in Konstan and Ramelli, 2009). Seneca notes (*Ep.* 95.45) that Cicero's younger contemporary Brutus also wrote a περὶ τοῦ καθήκοντος that was apparently quite detailed ([Brutus] *dat multa praecepta et parentibus et liberis et fratribus*).

[2] On the *Nachleben*, see Dyck (1996: 39–49), with further references.

[3] *Off.* 1.6: *sequimur igitur hoc quidem tempore et hac in quaestione potissimum Stoicos, non ut interpretes, sed, ut solemus, e fontibus eorum iudicio arbitrioque nostro quantum quoque modo videbitur, hauriemus*; cf. *Off.* 2.60: *ut et hic ipse Panaetius, quem multum in his libris secutus sum non interpretatus*. See also *Att.* 16.11.4 = 420 SB, discussed in Section 5.2 (for Cicero's letters and translations of them, I have followed Shackleton Bailey's Cambridge editions; all other translations are my own unless otherwise noted).

statements have been the focus of a long-standing and heated debate over how much Cicero and how much loosely adapted Panaetius are present in our text; *De officiis* therefore remains one of the last bastions of *Quellenforschung*, in contrast to many of Cicero's other works, which are now increasingly seen, rightly in my opinion, as strikingly original.

Many of the debates over Ciceronian originality in this work tend to focus somewhat narrowly on books 1–2, and in doing so overlook the philosophically rich but underexplored book 3. For Cicero tells us in the preface to that book that he aims to dissolve any apparent conflict between the *honestum* and *utile*, a topic Panaetius had promised to discuss but failed to deliver. Thus in book 3 Cicero is, as he says at *Off.* 3.34, fighting his own battle and writing *Marte nostro*. Here, then, is an opportunity to observe Cicero as a philosopher breaking new ground. My discussion will pursue two strands of analysis. First, after reviewing the *status quaestionis* for Cicero's use of Panaetius, I will look more broadly at his deep and intelligent engagement with the Stoic tradition, arguing that his real objective in this treatise of his maturity was to further the debate on the topic among earlier and contemporary Stoic thinkers. Second, I will examine Cicero's ongoing epistolary skirmishes with his Roman Epicurean contemporaries in light of a critical argument in *De officiis* 3 in which he redeploys Plato's account of the Ring of Gyges. Both strands crucially rely on using Cicero's correspondence as evidence for the development of his thoughts and arguments. I thus aim to add to recent intergeneric work which has explored how the letters are fertile sources for Cicero's philosophical thought.[4] This chapter, then, will show how Cicero engaged in one of his most popular and influential works with both the Greek philosophical tradition and his contemporary Roman context to create an original and exciting philosophical treatise.

5.1 Panaetius or Cicero?

The general outline of this debate will be a familiar story to those who study Cicero, and I will only dwell on it briefly. There are two broad approaches to the question. The traditional view, which continues to receive support, most recently in a posthumous study by P. A. Brunt, is that a great deal or even the vast majority of our text reflects Panaetius: The structure, individual arguments, and even many of the Greek and Roman *exempla* are

[4] See especially McConnell (2014) and Griffin (1995); and more broadly on the nature of the correspondence see e.g. Hutchinson (1998), P. White (2010), and Wilcox (2012).

derived directly from the original Stoic text.[5] These 'Panaetian' scholars will, of course, concede that when a passage mentions Julius Caesar, this was a clear addition by Cicero, and they will accept Cicero's occasional comment that he is filling in an omission by Panaetius. But these passages are, in their view, limited in number: For the most part, Cicero provides a close rendering of Panaetius's ideas. In sharp contrast, several more recent scholars, including Griffin, Atkins, and Lefèvre,[6] have argued for substantial or even overwhelming innovation on Cicero's part, to the point where Panaetius is either unrecoverable or plays only a minor part in the text as it stands.

There are good reasons to be sympathetic to both camps, for both sides can marshal concrete evidence in their favor. Brunt, for example, aptly cites a long passage on the obscure Greek politician Aratus of Sicyon as a clear example of pure, largely unadapted Panaetius (*Off.* 2.81–3).[7] Aratus's efforts to court Hellenistic despots to defuse civic *stasis* in his tiny city-state are discussed at surprising length and make very little sense in a Roman context, much less as advice to the young Marcus. The passage, however, does make excellent sense for a Greek writer like Panaetius: The tale of Aratus would offer valuable advice for how Greek statesmen should navigate domestic squabbles and delicately manage relations with greater powers, whether Ptolemaic Egypt or Rome.[8] Furthermore, brief comments at the beginning and end of the anecdote seem to be fairly transparent glosses added by Cicero.[9] Proponents of Ciceronian innovation, on the other hand, can reasonably stress strong linguistic and thematic resonances between, for example, *De officiis* and the *Philippics*, and underline the

[5] This is the traditional view of scholarship on *De officiis* in the early twentieth century; modern 'Panaetians' include Dyck (1996) (who provides a thorough discussion of older opinions), Alesse (1997), and above all Brunt (2013).

[6] E. M. Atkins (1990), Griffin and E. M. Atkins (1991: xvii–xxi), Lefèvre (2001) (the boldest advocate for overwhelming originality), and Griffin (2011).

[7] See Brunt (2013: 198). The argument is a bit rhetorical – e.g. 'Who can doubt that the Greek "*exempla*" come from Panaetius?' – but his point is nevertheless sound. See also the earlier analysis of Pohlenz (1934: 118–21) on why Panaetius saw in Aratus an important model of an effective politician who generated consensus, along with some comments on Cicero's reworking of the passage in light of the more recent example of the Gracchi and agrarian reform in Rome.

[8] This passage may well also reflect Panaetius's own political experiences. He was himself active in his native Rhodes and also in Athens; he consorted with Roman luminaries like Scipio Aemilianus (basic information in Brunt, 2013: 241–2; for details see the *vita* section in Alesse, 1997: 15–27, esp. 23–7 [and in the older edition of van Straaten FF1–32]).

[9] *Off.* 2.83: *o virum magnum dignumque, qui in re publica nostra natus esset*; the anecdote begins with a contrast to the Gracchi and Lysander *at vero Aratus Sicyonius iure laudatur* (had Panaetius originally paired Lysander and Aratus and has Cicero introduced the Gracchi?). Cf. the gloss following a discussion of Agis IV (*Off.* 2.80): *nostros Gracchos … nonne agrariae contentiones perdiderunt*?

importance of the treatment of *gloria* in book 2 – a topic of great interest to Cicero, who was after all the author of a now lost *De gloria*. Long, for example, argues that *De officiis* represents a diagnosis of 'what had gone wrong in Roman Republican ideology' and that '*De officiis*, not the *De re publica*, is Cicero's *Republic*'.[10] Clearly this was not the goal of Panaetius's original composition.

There is, therefore, some truth to both sides of the question of Cicero's originality. The problem is generalizing from these fairly clear-cut cases on either side to reach a holistic verdict about *De officiis*. Any such generalization necessarily relies on bridging the gap between clear cases one way or another with a variety of intelligent but highly speculative inferences about Cicero, Panaetius, and the history of the Stoa. For this reason, other scholars have shied away from the contradictory results of this *Quellenforschung* and have chosen to set aside, often in a footnote, the problem of sources entirely and plunge ahead with their own readings of the work.[11] One can sympathize with this pragmatic decision, but the result is a proliferation of even more varied and contradictory conclusions, with even less attempt to adjudicate between alternative interpretations. When a commentator like Dyck does attempt to adjudicate these issues on a case-by-case basis, the results are indeed significantly more nuanced, but in the lengthy commentary that results, it is easy to lose sight of the bigger picture. In what follows, I aim to shift the focus away from these source critical questions by concentrating to a much greater extent on book 3, where, as I will argue, the contours of the problem are quite different.

5.2 Research and Engagement with Stoic Authors

This section will examine our evidence for Cicero's research and preparation for writing *De officiis*, particularly book 3.[12] This includes statements in the treatise itself as well as a group of letters written to his long-time friend and correspondent, Atticus. Unlike many other letters relevant to the *philosophica* – that is, those which address the structure or formal characteristics of a dialogue, its revisions, or the politics of assigning speaking

[10] A. A. Long (1995a: 307 and 333). For the importance of the *gloria* theme throughout Cicero's philosophical works, see the contribution by Graver in this volume, together with note 48 below.

[11] See e.g. A. A. Long (1995a), Woolf (2015: 170–200), and Schofield (2021: 179–80 nn. 42–3 and, more generally, 186–96).

[12] Cf. Brunt (2013: 220–2), Dyck (1996: 8–10, 484–8), and Edelstein-Kidd (1988–9: ii.ii.185–9). As is often the case with source criticism, these authors reach fairly different conclusions about the depth of Cicero's reading; I will try to allow for alternative views or readings in what follows.

roles – I argue that the *De officiis* correspondence provides a unique view into Cicero's efforts to supplement work on ethics by Stoic philosophers writing in Greek earlier in the first-century BCE. In it, our author emerges as a thinker who goes beyond his main source and attempts to make book 3 (at least) of his work a novel contribution to contemporary Stoic debates on ethics.

On November 5 Cicero provided Atticus with a fairly detailed description of the work (*Att.* 16.11.4 = 420 SB), which had been started in late October (*Att.* 15.13a.2 = 417 SB). Cicero had dragooned the Stoic Athenodorus for τὰ κεφάλαια ('chief points' or 'headings'; see below) of a work by Posidonius which he believed dealt with issues raised by Panaetius; he had also sent for the book directly. By mid-November Athenodorus had complied; here Cicero calls his compilation a 'notebook', ὑπόμνημα (*Att.* 16.14.4 = 425 SB), which he is satisfied with. It is strictly speaking unclear whether Cicero ever received Posidonius's work, but it seems probable that he had, since Cicero was aware of a sketchy treatment of an issue by Posidonius.[13] At the very least he had a good idea about his former teacher's views on the subject. Indeed, in a tantalizing passage of book 3 we are told that Posidonius had written in a certain letter (*in quadam epistula*) that P. Rutilius Rufus had once compared Panaetius's incomplete work with the perfect beauty of the unfinished Venus of Cos (*Off.* 3.10). It is tempting and delightful to imagine that Posidonius had attached his own volume to the letter while discreetly suggesting to his former pupil that it was foolhardy to try to complete or outdo Panaetius; and that Cicero either missed the irony or plunged onward with even greater determination.[14] However, Dyck is correct that the wording of Cicero's reference makes this quite unlikely: At most he simply had access to a letter of Posidonius, and it is entirely possible and even likely that he had simply heard about it, perhaps from Rufus himself, whom Cicero knew and had visited in Asia.[15] What is clear, then, is that Cicero had at some point, recently or in the past, read Posidonius's views on Panaetius's περὶ τοῦ καθήκοντος, or at least had heard about them in some detail. We would furthermore do well to remember that Cicero's studies with Posidonius himself at Rhodes (see e.g. Plut. *Cic.* 4) may have also provided inspiration. Elsewhere, for example,

[13] Dyck (1996: 487) concurs, citing *Off.* 3.8 (*quem locum miror a Posidonio breviter esse tactum in quibusdam commentariis*); Schofield (2021: 220 n. 17) is more doubtful, but concedes that some knowledge would have come from Athenodorus.

[14] Cf. Posidonius's diplomatic response to Cicero's request to compose a work on the latter's famous consulship: *Att.* 2.1.2 = 21 SB.

[15] Dyck (1996: 507). The visit is described in *Rep.* 1.13.

he cites memories of lectures of the Epicurean Zeno which he had heard in Athens,[16] so reminiscences of school lectures are certainly possible. Finally, we should not completely rule out ideas or thoughts from Cicero's wide range of friends of other philosophical persuasions, like Antiochus or Philo; or the Peripatetic Cratippus, who is named at several points in *De officiis* and was teaching the young Marcus Cicero at the time.[17]

In addition to these traces of correspondence and interaction with Greek philosophers, Athenodorus certainly provided Cicero with further indirect knowledge of Posidonius. But what sort of assistance did he provide? τὰ κεφάλαια can mean either a summary of chief points or, more thinly, a series of chapter headings or topics.[18] The former, more expansive option seems more likely. The fact that Cicero later calls this document a ὑπόμνημα (notebook) suggests something more substantial than a list of headings.[19] Plutarch, for example, describes how he used his notebooks (ὑπομνήματα) of observations on tranquillity of mind, which he claims he had originally composed for himself (ἐμαυτῷ), to aid in his composition of a treatise on that topic.[20] This hypothesis of a more expansive summary is borne out by evidence in the treatise. Cicero's references to Posidonius elsewhere in *De officiis* (1.159, 3.8–10) point to awareness of particulars: For example, he notes that Posidonius had filled his book with ethical problem cases which were *taetra* and *obscena*,[21] and that he had 'in certain commentaries' only 'touched lightly' on Panaetius's omission (*breviter esse tactum in quibusdam commentariis*). So on the whole, I suggest that Athenodorus supplied a review or summary of the major issues, perhaps references to key examples, and possibly glossed with additional comments by Athenodorus himself. It does seem clear that Athenodorus provided substantive information on Posidonius's treatise.[22]

[16] *Tusc.* 3.38: *me audiente Athenis senex Zeno … contendere et magna voce dicere solebat …*

[17] Information and references in Dyck (1996: 61–2).

[18] *LSJ s.v.* κεφάλαιος 2, 5, 7. See on the issues in this paragraph the discussion of Edelstein-Kidd (1988–9: ii.ii.185–9).

[19] *LSJ s.v.* ὑπόμνημα goes so far as to gloss the word as 'dissertations or treatises written by philosophers, rhetoricians, and artists' – although in the case of Athenodorus, a complete treatise seems unlikely.

[20] *On Tranquility of Mind*, 464F.

[21] *Off.* 1.159: Posidonius was probably responding to discussions of cannibalism and incest in the Old Stoa. On the so-called 'disturbing theses', see Vogt (2008: 20–64).

[22] Edelstein-Kidd (1988–9: ii.i.188) may be right that for the composition of book 1 Cicero may not have yet had access to Posidonius's work and had to rely on Athenodorus, but they are perhaps overly pessimistic when they assert that this material 'was so exiguous in amount and relevance that it played no part in Cicero's book'. Cicero, at least, was quite satisfied with Athenodorus's notes and told Atticus further effort wasn't needed. As for the later reference at *Off.* 3.8, I agree with Dyck that by this time Cicero probably had had direct access to Posidonius's *Liber* (see note 13 above).

Cicero mentions three other Stoics in book 3: Hecato of Rhodes (*Off.* 3.63, 3.89), Diogenes of Babylon, and Antipater of Tarsus (*Off.* 3.51–5, 3.91). Hecato was a pupil of Panaetius and active around 100 BCE, while the others were the heads of the Stoa before Panaetius. Cicero's language when talking about Hecato is concrete and suggests that he had direct knowledge of a work περὶ τοῦ καθήκοντος: 'I see that Hecato … says in his books *De officio* (*Hecatonem … video in iis libris, quos de officio scripsit*)'; at *Off.* 3.89 he cites a specific book number – 'The sixth book of Hecato's *De officiis* is filled with questions like the following …' (*plenus est sextus liber de officiis Hecatonis talium quaestionum*) – and adds that Hecato 'argued *in utramque partem*' before discussing a few examples from this work. Cicero's introduction to the debate between Diogenes and Antipater, on the other hand, includes only a bare gloss about their eminence as Stoics. Their presence in the text is therefore more likely to be second hand, drawn perhaps from Hecato.[23] All of this suggests that Cicero had some direct knowledge of Hecato's περὶ τοῦ καθήκοντος, though perhaps not all of it; alternatively, it is possible Cicero's knowledge derives from a source (perhaps Posidonius or Athenodorus), but one which took care to provide fairly concrete details of the work and its structure. And somewhere along the line Cicero became aware of a relevant debate between Antipater and Diogenes, whether from Hecato or another source.[24]

This reconstruction of Cicero's engagement with other authors involves a good deal of inference. But even if I am wrong about the exact degree of his knowledge of Antipater, Hecato, Posidonius, or the nature of Athenodorus's summary, our evidence would still show Cicero engaging (or attempting to engage) with a range of philosophers, particularly his near-contemporaries – in any case with more than just Panaetius's source-text. This is all the more striking in light of his activities at the time. He had abandoned a trip to Athens to see young Marcus in the summer (thus the composition of *De officiis* later that year), followed by increasing, if initially sporadic, opposition to Antonius and the composition of many anxious messages to allies or flattering letters to those whom he hoped

[23] Cicero adds that Hecato had dedicated this work to Q. Aelius Tubero; Cicero had some interest in this Roman (references at Dyck, 1996: 574) which may have encouraged him to track down the text (whether for the purposes of writing *De officiis* or at some other time). Schofield (2021: 220 nn. 14 and 16) has recently voiced some doubts about Cicero having direct knowledge of Hecato. Still, if as Schofield instead suggests the examples cited come from Hecato more indirectly, this would still reflect an effort on Cicero's part to go far beyond merely following Panaetius's treatise.

[24] Alternatively, Cicero may himself have composed the exchange, based on reports from other readings of their two positions. See Dyck (1996: 557–9) for this and various other proposals.

to bring over to his side.[25] He was very busy but found time to read or consult beyond Panaetius and to incorporate ideas from several additional Stoic thinkers of relevance to the matter at hand – and, as we will see shortly, engage creatively with Plato's *Republic* in a novel way.[26] This level of research militates against narrow readings of Cicero's sources in other works. Though the tide is turning,[27] one still finds scholars who read, for example, *De finibus* 1–2 as substantially dependent on Philodemus, claim that the work's discussion of Epicurean pleasure derived from a single lost Academic source, or suggest that Cicero had only 'a few short works or extracts plus one or more doxographical writings'.[28] *De officiis* reveals that even during one of the busiest periods of his life he took great care to read and engage with a range of sources. I believe this conclusion can support more positive and nuanced readings of Cicero's intelligent and complex engagement with his philosophical sources in other works.

Second, I would like to see in the letters and book 3 a Cicero who is more assertive in his self-presentation as a philosopher. Book 3 is not a summary of someone else's views with a little bit of *iudicium* thrown in: Cicero has consciously identified an important and unresolved issue in Stoic ethics, tracked down works written by contemporary Stoic authors, and explicitly stated that he was trying to make a contribution to their ethical project. More colloquially, I think we can see Cicero trying to 'fill in a gap' in the scholarly literature, in a way not entirely different from what we as scholars routinely do.[29] And this may also help explain why he does so in his own voice and at length, something almost unique in the *philosophica* (*De fato*, another late work, being the exception). This

[25] P. White (2010: 137–65) offers a detailed account of Cicero's frenetic political manoeuvrings in this period.

[26] I should hedge a bit here: It is certainly possible that he had encountered Hecato, for example, long before writing *Off.* 3. But I believe his efforts to obtain Posidonius's book and to consult Athenodorus are still noteworthy; and in any case Cicero is venturing far beyond one or two sources, regardless of when he read them.

[27] See e.g. Graver's (2002a) valuable appendices on the wide range of sources used in the *Tusculans*; cf. Badian (1969) and Sumner (1973: 156–8, 166–70) on the detailed preparations for an aborted political dialogue.

[28] See respectively Tsouna (2007a: 345–51, esp. 346 n. 7; cf. Tsouna, 2007b: 14–15, with nn. 3–4), Nikolsky (2001), and Stokes (1995: 153). With respect to *De officiis*, cf. the references to 'Cicero or his source' *vel sim.* in Schofield (1995b: 196, 199, 205). Brunt (2013: 203) actually goes so far as to speak of Cicero 'interpolating' (!) Panaetius in *De officiis*.

[29] An anonymous reader points out, rightly, a significant difference: Cicero did not necessarily set out to 'fill a gap in the scholarship' to show off his originality, as modern scholars often aim to do; he only did so *because* there was a gap and would have been quite happy if Panaetius had completed his project. Still, it is clear that Cicero was quite happy to advertise confidently his originality and his work's relevance to Stoic studies, even if he did not necessarily set out to do so.

increasingly confident self-presentation can in turn be read, I think, in light of his striking claim in the *Tusculan Disputations* that he felt competent to give *scholae* like a Greek – something he had mocked or decried as late as *De finibus* and carefully and emphatically avoided in the works of the 50s[30] – or his praise of the uniqueness of his lost *Consolatio*.[31] My point is certainly *not* that in *De officiis* or the *Tusculan Disputations* Cicero suddenly became a serious philosopher (he was always a serious philosopher), nor that he suddenly started to engage with other authors. *De re publica*'s allusive gestures to Panaetius and Polybius (*Rep.* 1.34, 4.3 [4.1 Powell]), or *De oratore*'s deep engagement with philosophical and rhetorical traditions give the lie to such a claim. My point is rather that Cicero in *De officiis* felt emboldened to state explicitly his direct engagement with Greek philosophical sources and presented himself as a fully fledged philosopher, mediating disputes and furthering the scholarly debate, without the need for the *dissimulatio doctrinae* or the distancing from stereotypes of disputatious Greeklings in earlier works. It is tempting to conclude that at the end of his life and after all the works of the 50s and 40s Cicero felt more comfortable not only to state clearly what he felt to be plausible or *veri simile*, but also to contribute explicitly to the work of Greek philosophers – and even to correct them.

5.3 Writing *Marte nostro*: The Ring of Gyges and Epicurus's *K.D.* 5

Thus far, much to do about reading and research. We can now turn to analyze a major argument in book 3, to see how Cicero engages with his contemporary Roman context as well as with the Greek philosophical

[30] *Tusc.* 1.7: *in quam exercitationem ita nos studiose operam dedimus, ut iam etiam scholas Graecorum more habere auderemus*. Contrast the disdain for this practice at *Fin.* 2.1 (*primum inquam deprecor ne me tamquam philosophum putetis scholam vobis aliquam explicaturum, quod ne in ipsis quidem philosophis magnopere umquam probavi*). On the radical connotations of presenting oneself as giving a *schola* for contemporary Roman readers, who were often wary of 'tongue-wagging Greeklings', see Gildenhard (2007: 12–17). Gildenhard prefers to see the use of the term as a 'self-debasement' and thus a form of protest against his political marginalization under Caesar, while I see Cicero's use of it as a reflection of a more assertive self-presentation as a philosopher. I agree with Gildenhard, however, that the term *schola* carries sufficient cultural connotations to represent more than a neutral change of genre or presentation. Relevant here is the detailed analysis of Hine (2016), who establishes quite forcefully that Latin writers such as Cicero and Seneca carefully and consistently avoided calling themselves *philosophi*, which had similarly unpleasant cultural connotations (the first Latin writer to self-declare himself as a philosopher seems to be Apuleius). It was OK to *philosophari*, but not to be a *philosophus*.

[31] *Att.* 12.14.3 = 251 SB: *quin etiam feci quod profecto ante me nemo ut ipse me per litteras consolarer*. Plutarch, *Lucullus* 42 also expressed admiration for the early version of the *Academica*.

tradition. Here I will concentrate on a single example, one where Cicero takes inspiration from Plato to combat the popularity of Epicureanism in Italy. I argue that Cicero took to heart criticisms of his attacks on Epicurus from an epistolary debate with the future tyrannicide, C. Cassius Longinus, and offered a more nuanced and rigorous retort to Epicurean readers in book 3.

In *De officiis* 3.34, Cicero declares that he is now writing on his own:

> The part that he [Panaetius] left, therefore, I shall complete without any auxiliaries, but, as the saying goes, fighting my own battle *(Marte nostro).* For there is no treatment of this question since Panaetius, at any rate such that meets with my approval, in the writings that come into my hands.[32] (trans. E. M. Atkins)

Shortly thereafter, in *Off.* 3.38 and following, he sets out to bolster his overall contention in book 3 (i.e. that there is no conflict between the *honestum* and the *utile*) by introducing Plato's story about the Ring of Gyges (*Rep*. 2.359c–360b).[33] After arguing that the possibility of escaping punishment should never enter into moral deliberation, Cicero introduces the Ring in order to trap Epicureans (or other hedonists) into either admitting that the *honestum* is per se valuable or conceding that their efforts to praise justice and the other virtues are incoherent. He had already briefly explored the possibility of how an Epicurean would act in *De finibus*, but the Ring allows him to force Epicureans into a more potent dilemma.[34] The passage is worth quoting at length (*Off.* 3.39):

> If a wise man, then, were to have the same ring, he would think himself no more free to do wrong than if he did not have it. For a good man pursues aims that are not secret, but honorable. On this topic some philosophers who are not at all bad men, but not clear-thinking enough, say that Plato has produced a fictional tale, as if indeed he were justifying it either as actually having happened or even as possible. But the force of the ring, and of the example, is as follows: if no one were going to know, if no one were going even to suspect, when you did something for the sake of riches, power, despotism or lust, if it would be always unknown by gods and by men alike – then would you do it? They deny that that could have been possible, although it could indeed happen. But I am in fact asking what

[32] *hanc igitur partem relictam explebimus nullis adminiculis, sed, ut dicitur, Marte nostro. neque enim quicquam est de hac parte post Panaetium explicatum, quod quidem mihi probaretur, de iis, quae in manus meas venerint.*

[33] Woolf (2013) offers a first-rate analysis of how Cicero has redeployed Plato's argument in the context of Hellenistic philosophy; see also now Schofield (2021: 191–2).

[34] *Fin.* 2.28. The use of the Ring thus represents Cicero returning to and improving the force of his argument.

> they would do if the thing that they deny is possible were possible. They persevere in a boorish manner, they deny that it is possible and insist upon that, failing to see the force of this word ['if']. For when we ask what they would do if they could conceal it, we are not asking whether they could in fact conceal it. Rather, we are turning the screw, so to speak, so that if they reply that, given the proposed impunity, they would do the advantageous thing, they admit they are iniquitous; if they deny it, they concede that everything dishonorable should on its own account be avoided.[35] (trans. E. M. Atkins)

The argument has merit. Epicurus *did* adopt an uncompromising stance on the importance of justice and the other virtues, summarized by *K.D.* 5 (or the *Letter to Menoeceus* 132): 'It is impossible to live pleasantly without living prudently, nobly, and justly.' This conclusion, as stated, has *no* exceptions: Virtue, though of only instrumental value, is absolutely necessary for the acquisition of the highest form of pleasure.[36] Now, Epicurus had bequeathed to his followers a variety of arguments discounting the supposed long-term benefits of committing injustice, chief among them the argument that one can never be completely sure of getting away with it (e.g. *K.D.* 34 and 35). In citing the Gyges narrative, Cicero attempts to bypass those defenses. Since Plato stipulates non detection, the anecdote forces an Epicurean to explain why virtuous action is correct (for instrumental reasons, of course) even when the threat of detection is no longer applicable.

Cicero then imagines an Epicurean response: 'they say that Plato has produced a fictional tale.' But Cicero argues that this misses the point: 'they … fail to see the force of the word "if". For when we ask what they would do if they could conceal it, we are not asking whether they could in fact conceal it.' This response may seem a bit unfair: Is it really fatal if Epicurean ethics fail in some alternate reality? But we should remember

[35] *hunc igitur ipsum anulum si habeat sapiens, nihil plus sibi licere putet peccare quam si non haberet; honesta enim bonis viris, non occulta quaeruntur. atque hoc loco philosophi quidam minime mali illi quidem, sed non satis acuti, fictam et commenticiam fabulam prolatam dicunt a Platone, quasi vero ille aut factum id esse aut fieri potuisse defendat. haec est vis huius anuli et huius exempli: si nemo sciturus, nemo ne suspicaturus quidem sit, cum aliquid divitiarum, potentiae, dominationis, libidinis causa feceris, si id diis hominibusque futurum sit semper ignotum, sisne facturus? negant id fieri posse. quamquam potest id quidem, sed quaero, quod negant posse, id si posset, quidnam facerent. urgent rustice sane. negant enim posse et in eo perstant, hoc verbum quid valeat non vident. cum enim quaerimus, si celare possint, quid facturi sint, non quaerimus possintne celare, sed tamquam tormenta quaedam adhibemus, ut si responderint se impunitate proposita facturos, quod expediat, facinorosos se esse fateantur, si negent, omnia turpia per se ipsa fugienda esse concedant.*

[36] For some reflections on this point and on Epicurean virtue theory, see e.g. Mitsis (1988: 59–79), A. A. Long (2006), and Armstrong (2011).

that *K.D.* 5 and other Epicurean sources are insistent that just action is *always* the right choice: οὐκ ἔστιν ἡδέως ζῆν without justice, and so on. There is no qualification to this statement; it should always hold true. Of course, the Epicureans could qualify their claim and note that justice and injustice have no per se existence[37] and are liable to change, in which case *K.D.* 5 would only hold for *this* world as it is now. But that move is a concession, and one that Epicurus himself was apparently loath to make, at least according to a testimonium from Plutarch.[38] So Cicero's argument does in fact identify a soft spot in Epicurean ethics and forces a qualification to some of Epicurus's more strident claims about virtue. While the argument may not be fatal, it is at the least a bit embarrassing to force an interlocutor to admit that he or she would, in fact, behave quite badly indeed and give up on justice if the world were just a little different. In contrast, the Ring would pose no problem whatsoever for a Stoic: Virtue would in any scenario win out. Cicero's redeployment of a venerable Platonic argument in the context of Hellenistic ethics, then, is just one example of interesting arguments in *De officiis* 3 which reflect his own thinking and engagement with the history of philosophy.

Cicero's correspondence can, I argue, breathe new life into this argument by locating it firmly in his contemporary Roman context. For Cicero had indeed been debating philosophy with his erudite associates for years before *De officiis* 3, and the Ring of Gyges discussion is the culmination of a decade of philosophical bickering with his Roman Epicurean friends.[39] A notable example of his repeated attempts to trap and pin down these correspondents is a letter to the jurist Trebatius Testa, written about a decade earlier.[40] We learn in the letter that the prominent Caesarean and general C. Vibius Pansa, the dedicatee of Philodemus's *On Rhetoric* book 4,[41] had informed Cicero that Trebatius 'had become an Epicurean' (*indicavit mihi Pansa meus Epicureum te esse factum*). After expressing surprise and dismay at this conversion, Cicero in this letter launches into a series of

[37] *K.D.* 34 again: ἡ ἀδικία οὐ καθ' ἑαυτὴν κακόν.

[38] Plutarch, *Adv. Col.* 1127D = fr. 18 Us.: '[He] asks himself in the *Disputed Questions* whether the sage who knows that he will not be found out will do certain things that the laws forbid. He answers: "the unqualified predication is not free from difficulty (οὐκ εὔοδον τὸ ἁπλοῦν ἐπικατηγόρημα)"' (trans. Einarson and De Lacy). Plutarch then, probably unfairly, concludes 'that is, "I shall do it, but I do not wish to admit it"'. On this passage and what Epicurus may have meant, see the interesting speculations in Roskam (2012).

[39] For this network of friends, see Castner (1988) and Gilbert (2015: 78–115) on Epicurean contacts, and Garbarino (2003) (on the other schools). It is worth citing again Griffin (1995) and especially McConnell (2014), who both offer a range of explorations of philosophy in Cicero's letters.

[40] *Fam.* 7.12 = 35 SB, written to Trebatius in Feb. 53.

[41] According to the new reading of Dorandi (1996).

pointed questions: How would Trebatius promise to arbitrate legal issues[42] fairly when he does everything for his own sake (*omnia tua causa facias*)? Why would he be a patron of his hometown if Epicureans stay out of politics (*quid fiet porro populo Ulubrano, si tu statueris* πολιτεύεσθαι *non oportere*)? What would an oath to Jupiter mean if he had no fear of a god being angry (*quo modo autem tibi placebit Iovem Lapidem iurare cum scias Iovem iratum esse nemini posse*)?[43] With these questions Cicero is forcing his epistolary interlocutor to justify his actions and lifestyle according to a hedonistic calculus. He tries to argue that his correspondent's doctrine is incompatible with the life of a Roman aristocrat, a tactic that will appear prominently in *De finibus* 1–2 and that finds parallels in a number of Greek philosophical authors.[44]

With this background in mind, we can turn to the much later correspondence with Cassius, the Epicurean and future tyrannicide. There we find more jabs against Epicurus and his Roman adherents which are even more resonant with the Gyges thought experiment. The letter in question is one of a series of three letters to Cassius, written in late 46/early 45 BCE as both correspondents were brooding in Italy while they awaited news of Caesar's campaign against the sons of Pompey in Spain. The series touches upon political gossip as well as philosophy: One gets the sense that Cicero is trying to establish a rapport with his correspondent. In *Fam*. 15.17 (= 214 SB) Cicero, as in the letter to Trebatius almost a decade earlier, demands

[42] It is intriguing that Cicero uses the legal phrase *ut inter bonos bene agier* in this letter and again at *Off*. 3.61 and 3.70 (also *Top*. 66). It seems unlikely that he has in his treatise this much earlier letter in mind, but I do think the reuse of the example reveals how Cicero had been practicing/trying out examples and arguments for many years – indeed, perhaps all the way back to his studies with his old teacher Scaevola, as Dyck (1996: 584) suggests.

[43] Obbink (1996: 425–6) tries to justify Epicurean oaths ('For an Epicurean the swearing of an oath exhibits or even creates a disposition … in one's soul to fulfil it – a disposition which according to Epicurean theology is closely connected, if not coextensive, with the gods by which one swears'), but this seems rather desperate and results in an oath that is so far removed from traditional practice as to verge on a deception. For Epicurus's own religiosity and even initiation to the Eleusinian mysteries, see Philodemus, *De pietate* 558–9 and 808–10.

[44] To anticipate a common objection: I do not see this letter as a 'mere' joke, and I am inclined to take the arguments in it seriously – contra e.g. Griffin (1995: 332) – 'a series of rather crude jokes'; Armstrong (2011: 118) – '[Cicero's] frequently facile deprecation of Epicureanism'. Parallels to the strategy in this letter, including the staccato barrage of pointed questions, can be found elsewhere in the philosophical tradition, as well as in Cicero: The strategy aims to reveal contradictions between various claims of a school. See e.g. Epictetus, *Disc*. 3.7.19–21, a very close parallel; or Cicero, *Nat. D.* 1.115–17; Plutarch's *Against Colotes* is an extended example of this strategy in terms of epistemology. For this and similar sorts of arguments in the philosophical tradition, see Kechagia's (2011: 174–8) discussion of Plutarch's polemical strategies in *Against Colotes* (building on ideas in Westman, 1955). Cf. Burnyeat (1976: 47–8, 57–8) on ancient περιτροπή ('self-refutation') arguments; more general comments can be found in Owen (1983) and Kleve (1978).

from his correspondent a hedonistic explanation for the seemingly altruistic actions of Pansa, who again appears as a proud Epicurean. Pansa, Cicero tells us, had departed from Rome and was treated to widespread acclamation (*Fam.* 15.17 = 214 SB, Jan. 45):

> Our friend Pansa left Rome in military dress on 30 December, an unmistakable illustration of what you have recently begun to question, that moral goodness is to be chosen for its own sake. He has relieved many from their miseries and behaved like a human being in these bad times; as a result he left Rome escorted by the extraordinary goodwill of reputable citizens.[45] (trans. Shackleton Bailey, slightly modified)

The argument in this letter is compressed. Griffin has offered the most detailed analysis of this difficult passage and has done much to unravel its argument.[46] His argument proceeds as follows: Pansa departed from Rome in military uniform;[47] his escort of 'good men' illustrates the intrinsic value of τὸ καλὸν, or 'the honorable' or 'moral goodness'. The following sentences explain Cicero's point in more detail:

1. Since Pansa aided those in need and acted 'like a man' in troubled times,
2. A wonderful good-will (*mirabilis … benevolentia*) arose from the good men (*virorum bonorum*) when he departed from Rome.
3. This reaction undermines Epicurus's denial of the intrinsic value of τὸ καλόν.

The issue here is not Pansa's departure from Rome but the *benevolentia* that accompanied it. The *benevolentia* of the 'good citizens', which presumably arose from Pansa's efforts to help Pompeians, is supposed to undermine the coherence of Epicurean social theory. To help make sense of this point, Griffin has collected passages from works of later that year which discuss *gloria* and its proper role in politics. In these passages, it

[45] *Pansa noster paludatus a. d.III Kal. Ian. <ita> profectus est ut quivis intellegere posset, id quod tu nuper dubitare coepisti,* τὸ καλὸν δι' αὑτὸ αἱρετὸν. *nam quod multos miseriis levavit et quod se in his malis hominem praebuit, mirabilis eum virorum bonorum benevolentia prosecuta est.*

[46] Griffin (1995: 343–6), who I follow on most points, though I see Cicero's argument in a somewhat more positive light than she does.

[47] The reasons behind Pansa's departure are unclear. It has been speculated that he left to meet Caesar in Spain, or that his departure was involved with his efforts to provide aid to Romans who had sided with Pompeius and fared poorly after Caesar's victory. As to the first point, Shackleton Bailey (1977: 2.378) has acutely undermined the logistics of a junket to Spain and back before Pansa's governorship of Gaul in March; as to the second, it is not clear why Pansa's informal support of Pompeians would lead to a military command (*paludatus*) or his departure from Rome. Shackleton Bailey therefore suspends judgment on the matter. However, for reasons that will become clear the precise nature of Pansa's commission is not particularly relevant to Cicero's argument.

is the performance of good actions for their own sake (and not for self-serving motives) that results in spontaneous approval and goodwill – this is 'true glory'.[48] On the other hand, if these activities had been motivated by a selfish Epicurean hedonistic calculus, the same positive reception by the *boni* would not have occurred. On this reading, then, Pansa's activities were sufficiently altruistic to warrant the spontaneous goodwill characteristic of true glory. In other words, Pansa's efforts to support downtrodden Pompeians and the spontaneous goodwill that resulted from his actions simply cannot be justified, according to Cicero, by an elaborate hedonistic calculus: His actions are nonreducible other-oriented actions, and his life and character are therefore better than his beliefs. This does not refute Epicurus per se, but rather it demands, just as in the letter to Trebatius, an answer as to how these Roman Epicureans could justify their actions in purely hedonistic terms. Indeed, in a later letter in the series Cicero poses this very question to Cassius, in which he says that he is 'testing you to see how you take [my criticisms]' (*tempto enim te, quo animo accipias*) in the hope of reversing Cassius's recent conversion to Epicureanism and to gauge his commitment: Was he a serious Epicurean who could defend the school's position?[49] In other words, it seems that Cicero was picking a friendly fight with his Epicurean correspondent and wanted to see how he would respond.[50]

Cassius's response to Cicero's previous letters is rich and worthy of extended analysis, but here I will focus solely on his response to Cicero's sally against Pansa (*Fam.* 15.19 = 216 SB, Jan. 45):

> I am glad that our friend Pansa left Rome in uniform amid general good will, both for his sake and, let me add, for all our sakes. For I hope that

[48] Griffin (1995: 343), citing *Fin.* 3.57, 5.62–3; *Off.* 2.32, 2.43. McConnell (2014: 202–3) provides a substantial list of further parallels and a very helpful discussion of Cicero's treatment of *gloria* throughout his *philosophica*.

[49] *Fam.* 15.16 = 215 SB, Jan. 45. It is unclear what sect Cassius followed before his conversion to Epicureanism. Shackleton Bailey (1977: 2.379) entertains the idea that he was a follower of Antiochus of Ascalon (like Brutus), but there is no reason he could not have been a Stoic or even a Peripatetic – Griffin (1995: 343–4) appropriately suspends judgment; Benferhat (2005: 261 n. 189) suggests that Pansa may have converted Cassius. Sedley (1997: 41; cf. Sedley, 2013: 44) argues with some plausibility that the reference to Cassius's conversion 'by violence and arms' refers to the Civil War. Much earlier, Momigliano (1941) had suggested that the conversion was related to Cassius's decision to assassinate Caesar, but Cicero's reference to 'two or three years' (and *Fam.* 15.16's date of 46–5) is decisive counterevidence (so Shackleton Bailey, 1977: 2.378, followed by Griffin, 1995: 342).

[50] Unlike their close association after the Ides of March, and later when plotting against Antonius, Cicero and Cassius seem at this time to have had a more distant and cool relationship, so Cicero may not have known what to expect from Cassius. There is no reason in any case to suspect that he really hoped to convince Cassius to abandon his convictions.

> people will understand how intense and universal hatred is for cruelty and love for worth and clemency, and that they will see how those things which the wicked seek and covet come in fact to good men. For it is difficult to persuade men that moral goodness is to be chosen for its own sake; but it is both true and probable that pleasure and tranquility are furnished by virtue, justice, and moral goodness. For Epicurus himself, whom all those Catiuses and Amafiniuses (bad translators of his words) take as their starting point, says: 'it is impossible to live pleasantly without living rightly and justly'. And in this way both Pansa, who follows pleasure, retains virtue; and those who are called by you lovers of pleasure are in fact lovers of moral goodness and lovers of justice and they cultivate and retain all the virtues.[51] (trans. Shackleton Bailey, slightly modified)

Cassius joins Cicero in rejoicing at the goodwill which Pansa's activities had incited. But he thereafter departs from Cicero's analysis and offers a radical reinterpretation of the situation in order to defend Epicurean ethics. His strategy is to challenge Cicero's claim about the incompatibility of hedonism and virtue; he instead argues that justice and the other virtues are necessary prerequisites for a pleasant life. He begins by underlining the dangers of vice and the benefits of virtue: *crudelitas* arouses intense hatred while *probitas* and *clementia* result in *amor*.[52] He further claims that the actions of the wicked are misguided; the goods that they crave are in fact acquired only by good conduct. This comment is compressed, but later in the letter he provides concrete examples of his point: The avariciousness of Publius Sulla and the *crudelitas* of Pompey the Great's son Gnaeus resulted in hatred, while Pansa's virtuous character yielded *benevolentia* and *amor*. In other words, Cassius is claiming that the misguided and empty beliefs of wicked men significantly impede their acquisition of goods productive of happiness (e.g. a wide range of friendships or the goodwill and reputation which might provide security against violence and injustice). His strategy so far has been to argue that being good is in everyone's best interest; his following comment offers a more abstract formulation of his position, which he presents as far more intuitive than Cicero's hopelessly unrealistic ideal of selfless action: 'For it is difficult to persuade men that moral goodness is to be chosen for its own sake; but it is both true and

[51] *Pansam nostrum secunda voluntate hominum paludatum ex urbe exisse cum ipsius causa gaudeo tum mehercule etiam omnium nostrum. spero enim homines intellecturos quanto sit omnibus odio crudelitas et quanto amori probitas et clementia, atque ea, quae maxime mali petant et concupiscant, ad bonos pervenire; difficile est enim persuadere hominibus* τὸ καλὸν δι' αὑτὸ αἱρετὸν; ἡδονὴν *vero et* ἀταραξίαν *virtute, iustitia,* τῷ καλῷ *parari et verum et probabile est; ipse enim Epicurus, a quo omnes Catii et Amafinii, mali verborum interpretes, proficiscuntur, dicit:* οὐκ ἔστιν ἡδέως ἄνευ τοῦ καλῶς καὶ δικαίως ζῆν. *itaque et Pansa, qui* ἡδονὴν *sequitur, virtutem retinet, et ii, qui a vobis* φιλήδονοι *vocantur, sunt* φιλόκαλοι et φιλοδίκαιοι *omnesque virtutes et colunt et retinent.*

[52] Cf. Armstrong (2011: 113).

probable[53] that pleasure and tranquillity are furnished by virtue, justice, and moral goodness.'

As befits a good Epicurean, Cassius then cites a maxim of the master (*ipse enim Epicurus … dicit*) in Greek to sum up his position: 'It is impossible to live pleasantly without living with moral goodness and justice (οὐκ ἔστιν ἡδέως ἄνευ τοῦ καλῶς καὶ δικαίως ζῆν).' This is a close citation of the first clause of a comment from either Epicurus's *Letter to Menoeceus* (Diog. Laert. 10.132) or *Kuria Doxa* 5.[54] In citing this maxim, Cassius thus concludes his defense of Epicurean ethics by drawing out the consequences of the tight relationship between virtue and pleasure. Cicero is simply wrong to insist on their incompatibility; both Pansa and Cassius himself can speak meaningfully about a virtuous life of pleasure: 'And in this way both Pansa, who follows pleasure, retains virtue; and those who are called by you lovers of pleasure are in fact lovers of moral goodness and lovers of justice and they cultivate and retain all the virtues.'[55]

Cassius seems to have won this skirmish: Pansa's activities could be very well justified in Epicurean terms. But Cicero refused to change his tactics. A few months later in *De finibus* 2, he unleashed a barrage of dozens of ethical problem cases, ranging from legends of Roman history to recent court cases, designed to push Epicureans into a corner: In each case he demanded a hedonist explanation for the seemingly altruistic actions.[56] And by this time Cicero had identified *K.D.* 5 as the crux: If he is able to find a *single* exception to this doctrine, Epicurus's defense of virtue will fall apart (*Fin.* 2.70):

> 'But Epicurus denies' – and this is your ace in the hole – 'that anyone who does not live morally can live pleasantly.' As if I give a damn what Epicurus says or denies! I'm asking this: what can one who places the highest good in pleasure claim consistently?[57]

[53] Griffin (1995: 346) suggests that Cassius's term *probabile* alludes to Cicero's Academic skepticism. This clever allusion would be in line with the playful Epicurean language Cicero employed when writing to Epicurean correspondents.

[54] So Griffin (1995: 344–5). For the importance of the *Kuriai Doxai*, see *Fin.* 2.20: 'Who of you Epicureans have not learned the *Kuriai Doxai* … because they are the most weighty and pithy maxims for living well?' (*quis vestrum non edidicit* Epicuri κύριας δόξας … *quia gravissimae sint ad beate vivendum breviter enuntiatae sententiae*?). Might Cicero have had Epicurean correspondents like Cassius in mind when he wrote this? I note also that Cassius omits the adverb φρονίμως. Griffin (1995: 345) suggests this was intentional and Cicero sets up a pun later in the letter, but it seems entirely possible that Cassius is quoting from memory and is citing the content most relevant to Cicero's critique, namely that regarding the importance of justice. Benferhat (2005: 263) sees Cassius as modifying Epicurean doctrine here, with an eye toward Plato, but I am not convinced.

[55] Cf. Gordon (2012: 131–2) and McConnell (2014: 25–6).

[56] Cf. Inwood (1990).

[57] *'at negat Epicurus (hoc enim vestrum lumen est) quemquam qui honeste non vivat iucunde posse vivere.' quasi ego id curem quid ille aiat aut neget; illud quaero, quid ei qui in voluptate summum bonum ponat consentaneum sit dicere.*

One suspects, however, that a committed Epicurean would be prepared to explain away the entire litany of examples supplied in *De finibus* 2. Indeed, even Cicero appears to anticipate that kind of pushback, when he ends book 2 with the palpably contemptuous remark that 'I fear that you would say that Hercules himself undertook all his labors with the greatest exertion on behalf of the common weal – all for the sake of pleasure' (*Fin.* 2.118).[58]

From the letter to Trebatius in 53 to the letter to Cassius in 45, and in the fulminations against the Garden and its Roman adherent Lucius Torquatus in *De finibus* 1–2, Cicero tried again and again to pin down his Epicurean interlocutors and get them to admit their grand claims of the compatibility of virtue and pleasure just did not make sense. If Cassius's reply is any indication, he was not particularly successful.

5.4 The Ring Revisited

We can now return to Cicero's argument in *De officiis* 3. We have seen that a key strategy in Cicero's attacks on Epicureans and their ethics had been to force them to concede a single concrete example for which no hedonistic explanation can be given. But this is not an easy task: A good Epicurean can always find some way to wiggle out of the difficulty. So when Cicero returns to this issue in *De officiis* 3, he changes tactics. Reaching back to Plato for inspiration, he offers a thought experiment which stipulates nondetection and tries to take advantage of the overly strong conclusion of *K.D.* 5. His aim is to force his interlocutors to admit that Epicurean ethics are contingent: If things were a little different, they would toss justice and all morality aside. This argument may or may not convince, but taken in the context of his letters and dialogues, I think we can see a sophisticated, coherent, and nuanced strategy, developed over a decade in his published work and private correspondence, to force Epicurean ethics to collapse upon itself. Epicurus himself, as we have seen, is perhaps not entirely convincing on the critical importance of moral goodness for *eudaimonia*, and Cassius and other Romans seemed to have also been adept at dodging a fully honest statement of their purely instrumental morality. The Ring of Gyges thought experiment makes this clear. Compared to the one-sided polemics of most other critics of the Garden,[59] Cicero emerges as a powerful and intelligent critic.

[58] *vererer ne Herculem ipsum ea quae pro salute gentium summa labore gessisset, voluptatis causa gessisse diceres.*

[59] Gordon (2012) offers many examples of rather unphilosophical attacks on the Epicureans. Though, for what it is worth, the Epicureans were more than ready to fight fire with fire. See Kleve (1978) (or some of the polemics in e.g. Philodemus's *De pietate*, whose aggressive style Cicero imitated with Velleius in *De natura deorum* book 1).

In this chapter, I have not attempted to offer any sweeping judgments about *De officiis* as a whole. Indeed, given the difficulties of source-critical issues, such a generalizing verdict may well be impossible. Instead, I have suggested that focusing on book 3 not only avoids many difficult source-critical debates[60] but also offers a unique opportunity to see Cicero the philosopher in action. We see Cicero refining arguments and tactics developed over years of skirmishing with Epicurean rivals, and we see evidence of a bold engagement with Stoic sources with the aim of filling a 'gap in the literature'. And so in this work we see the Greek philosophical tradition and Cicero's Roman context come together. I have only been able to touch on a few points and a few passages, but I hope these examples are nevertheless sufficient to show that book 3 has been underappreciated,[61] and, furthermore, that Cicero's letters can illuminate not only his research methods but also the development of his polemical and argumentative strategies.

[60] Though not all such disputes: see e.g. the discussion of *Off.* 3.21 in Dyck (1996: 524, cf. 487–8), suggesting Posidonian provenance. Lefèvre (2001: 151 with n. 77) objects, but without much evidence.

[61] Schofield (2021: 186–96) appeared as this chapter was being finalized: It provides further fresh readings of *De officiis* 3 and underlines the value of renewed focus on the book.

PART II

Political Philosophy and Ethics

CHAPTER 6

Iuris consensu *Revisited*

Malcolm Schofield

In *De re publica* book, 1 Cicero famously defined the *res publica* as *res populi*, the business or the interest of the people, and then went on to flesh out what we should understand to constitute a people: 'a collection of a great number of human beings, joined in partnership (*sociatus*) through agreement or unanimity of law or justice or right(s) (*iuris consensu*) and through sharing in advantage (*utilitatis communione*)' (*Rep.* 1.39). 'Sharing in advantage' seems clear enough. But my disjunctive rendering of *iuris consensu*, with its repeated 'or' and unconvincing 'of', is intended to give an indication of the difficulty translators and other interpreters have had in grasping what Cicero meant by the expression. This chapter offers a fresh attempt on the problem.[1]

The first section introduces the two main issues at stake: the meaning of *ius* in this context and the interpretation of the genitive construction with *consensu.* The second section explains the methodology I shall follow in tackling the meaning of *iuris consensu.* Sections 6.3–6.5 examine in turn the deficiencies Cicero identifies in the three 'tolerable' but not 'perfect' forms of *res publica*: democracy, aristocracy, and kingship. They argue that these are clearly conceived as defective in justice or right(s). The sixth section provides further evidence and argumentative support for the rendering of *ius* as 'justice' or 'right(s)' and considers the views of two scholars in particular – James Zetzel and Elizabeth Asmis – who have favoured 'law' as the translation, and who also propose that Cicero assumes a revised interpretation of *ius* when he resumes consideration of forms of *res publica* in the closing section of book 3.[2] The seventh section turns to consider the

[1] Earlier studies that I have found particularly useful in writing this article are Kohns (1974), Asmis (2004), Zetzel (2013), and J. W. Atkins (2013: 120–54).

[2] Zetzel (1995: 127; 1996: 311; 2017c: 18, 77) and Asmis (2004: 575–82, 588–9). But Zetzel (1995: 128–9) had given a favourable reception to a rendering of *iuris consensu* as 'common idea of what is right', because it 'preserves some of the deliberate ambiguity of the phrase', while settling for acceptance of the rule of law as the main idea being communicated.

construction *iuris consensu* and the way we may suppose it to function. By way of a brief conclusion, the eighth and final section argues against the idea that Cicero employs the expression in order to propose a contractual basis for the state, and it offers a suggestion as to how law (*lex*) does relate to *iuris consensus*.

6.1 The Problem

Cicero makes the notion of *populus*, 'people', the pivot for understanding what it is to be a legitimate *res publica.* A political entity will count as a *res publica* if and only if in its functionings it is answerable to a *populus* that can exercise its rights of ownership over them.[3] Scipio, Cicero's protagonist in *De re publica*, spells out what he takes a *populus* to be (*Rep.* 1.39): 'not any and every collection of human beings, brought together in any way whatsoever, but a collection of a great number of them, joined in partnership *iuris consensu* and through sharing in advantage (*utilitatis communione*)'. So much is familiar ground for all who have more than a passing acquaintance with Cicero's political philosophy. But anyone who hopes to engage more closely with his theorising about *res publica* next hits the problem of grasping just what he meant by the element in that formal account of a *populus* that I have so far left untranslated: *iuris consensu.*

The expression *iuris consensu* appears in classical Latin literature only here (and in a reference back to this passage at *Rep.* 3.45 [3.35 Powell]). Its meaning and grammatical construction are by no means obvious and have prompted a fair amount of debate in the commentaries on *De re publica* and in other treatments of the dialogue. Is *ius* here 'law' or 'justice' or 'right(s)'? Each option has its advocates.[4] Does the phrase *iuris consensu* mean something like 'agreement with respect to law or justice' (taking *iuris* as an objective genitive, effectively functioning as though it

[3] See my discussion in Schofield (1995a).

[4] For 'law' see, for example, Zetzel (1995: 129), Asmis (2004: 578–82), and the translations of Rudd (1998: 19) and Zetzel (2017c: 18); Augustine is the most notable proponent of 'justice' (August. *Civ. Dei.* 19.21), the rendering of the Latin offered in the Loeb edition of Keyes (1927: 65 and throughout); 'right' is adopted by Nicgorski (2016: 169–74), as in Fott's translation (Fott, 2014: 47), and 'rights' by J. W. Atkins (2013: 130–8). Fott (2014: 19) explains *ius* in its sense of 'right' as meaning either 'what is right', akin to Greek δίκαιον, or 'a right to do or have something'. In the first meaning it would seem to be equivalent to the Loeb's 'justice' (as Nicgorski, 2016: 174, seems to indicate: 'right or justice'), in the second to Atkins's 'rights'. It is not clear which of these senses Fott intends in translating *iuris* in the definition as 'right'. But of course, if for a just social and political order to exist, rights 'to do or to have something' (including participation in the political process and protection from actions of governments and officers of state) must be enshrined in the law, as Romans believed, 'justice' and 'rights' mutually imply each other.

were equivalent to *de iure*)?[5] Or is the meaning alternatively more like 'agreement characteristic of or created by law or justice' (supposing *iuris* to operate as a subjective genitive, the more usual construction with *consensus*)?[6] In publications twenty years apart, I opted myself first for the objective genitive, treated as if it worked like *de iure* (with perhaps the majority among scholars), but second time round for the subjective.[7] In the interval, Elizabeth Asmis, who thought that *ius* should be interpreted here primarily as 'law', suggested that both possibilities might be in play: 'agreement on law', 'agreement that is itself lawful'.[8]

In the course of a generally helpful sequence of articles published in the 1970s, devoted to explicating the relevant paragraph in the first book of *De re publica*, H. P. Kohns suggested at one point that any educated Roman would have found the phrase *iuris consensu* immediately intelligible without further specification.[9] How could one be sure of something like that? Probably a more typical reaction would be Asmis's: 'The whole expression is compressed, apparently out of a desire for grammatical parallelism with *utilitatis communione*'.[10] It does seem likely that *consensus* was called into service in the definition partly for rhetorical effect: to achieve the weight and symmetry of the pairing *iuris consensu et utilitatis communione sociatus*, and convey extra emphasis on the commonality of partnership through the compounds ***con****sensu* and ***com****munione*. That typically Ciceronian stylistic predilection was surely one prime reason for creating in *iuris consensu* a unique grammatical unit. Would an educated Roman reader have found it not merely compressed but forced, or awkward, as Asmis also puts it?[11] We cannot know.

But here is a case for venturing to assess it as at any rate uncharacteristic of the general usage of *consensus*. If we look at the way the classical Latin that survives to us uses genitive constructions with *consensus*, then the most pertinent evidence seems to be this: the subjective genitive construction, overwhelmingly the most frequently used with *consensus* in all periods of literary Latin, is applied for the most part to persons or groups alleged to

[5] So, for example, Büchner (1984: 123) and Asmis (2004: 579).
[6] Cancelli (1972: 255).
[7] Schofield (1995a: 70–1) and (2015: 120).
[8] Asmis (2004: 579).
[9] Kohns (1974: 492).
[10] Asmis (2004: 579). Nonetheless she suggests (580) that the 'full sense of the definition, *as understood by the ordinary Roman*, becomes clear' (my italics) once all the terms in its specification of *res publica* are understood in mutual interrelation. How could we have that degree of access to the understanding of 'ordinary Romans'?
[11] Asmis (2004: 579).

be party to the *consensus* in question. A typical Ciceronian example is his claim, in a famous letter of December 54 BCE to his political ally Publius Lentulus Spinther, that in the run-up to his being exiled four years earlier 'the consensus in my defence – of the Senate, of all Italy, of all honest men – was truly remarkable, a thing transcending belief' (*Fam.* 1.9.13 = 20 SB).[12] But he can also articulate the philosophical doctrine of the unity of virtue as the 'harmony and consensus of the virtues' (*Fin.* 5.66).

Items that get included within the scope of the very much rarer objective genitive construction with *consensus* are characteristically beliefs or intentions or behaviour or attitudes or behavioural states of persons or groups. Seneca speaks of unanimity (*consensus*) 'in protecting and loving kings' (*Clem.* 1.3.4) and 'in blameless behaviour (*innocentiae*)' (*Clem.* 1.23.2), or again of unanimity and unison 'in falsehoods (*falsorum*)' – perhaps 'a conspiracy of lies' (*Ben.* 6.30.3). Cicero himself talks of a 'consensus and partnership (*societas*) in deliberations and intentions (*consiliorum et voluntatum*)' (*Planc.* 5), although here the genitives are doubtless primarily dependent on *societas*. *Iuris*, in any of the meanings interpreters propose for it in Cicero's definition of *populus*, does not appear to fit comfortably in either pattern.

6.2 Methodology

In the glossary of key terms included in the introductory material that James Zetzel supplies for his Cambridge translation of *De re publica* and *De legibus*, these are the equivalences he gives for *ius*: 'law, justice, right, rights, procedures of justice, just behaviour, court, regulations, power, authority'.[13] Various strategies might be adopted for trying to determine which meaning or cluster of these meanings might be salient in Cicero's *iuris consensu.* Not being very convinced by most of the arguments for those offered in the contemporary literature on the topic, I will here take what I hope is a fresh tack. It is prompted by a remark the Oxford philosopher J. L. Austin made, in a once famous article ('A plea for excuses') first published over sixty years ago. He wrote: 'As so often, the abnormal will throw light on the normal …. Like "real", "free" is only used to rule out the suggestion of some or all of its recognised antitheses.' He went on to say of the discussion of voluntariness in the *Nicomachean Ethics*: 'Aristotle has often been chidden for talking about excuses or pleas and overlooking

[12] *quo in discrimine cum mirifica senatus, incredibilis Italiae totius, singularis omnium bonorum consensio in me tuendo exstitisset.*

[13] Zetzel (2017c: xxxiii).

"the real problem": in my own case, it was when I began to see the injustice of this charge that I first became interested in excuses.'[14]

I will take a leaf out of Austin's book by considering what Cicero has to say about the defects exhibited by more or less dysfunctional political regimes, first in the immediate sequel in book 1, where he discusses kingship, aristocracy, and democracy (*Rep.* 1.42–4), and then in the critique of thoroughly degenerate regimes in book 3 (*Rep.* 3.43–5 [3.35 Powell]). As Büchner commented on the book 1 passage, the critical diagnosis measures regimes against the formula for a *res publica* specified in the definition.[15] The hope is that Cicero's specifications of the defects will cast light on how he is conceiving the norm, as articulated in that expression *iuris consensu … sociatus*. He identifies deficiencies of two kinds: (A) A *res publica* may be governed in such a way that it can no longer be considered the *res populi*, as specified in the basic definition of *res publica.* In these circumstances the people lose ownership of the affairs of state and of their conduct. (B) The distinguishing features that make a collection of human beings a proper *populus* may be realised only to a degree that is too limited – or in the worst case not at all. Cicero's recognition of the difference between (A) and (B) can be discerned particularly in the relevant paragraphs of book 3, even given the fragmentary condition of the text at that point (see especially *Rep.* 3.43 [3.35 Powell], where under tyranny there is no *res populi* nor even a *populus*). It is more explicit in Augustine's exposition of the way 'he brings out the usefulness of his definition for discussion'. No *res publica* exists at all, Augustine concludes (with a degree of oversimplification), when a tyrant or faction takes control, because (A) in those circumstances there is no *res populi*. And the *populus* itself is no longer a *populus* if it is unjust, because (B) the population is not then joined in partnership *iuris consensu* and through sharing in advantage, as *populus* had been defined (August. *Civ. Dei* 2.21).

But a *res publica* can exhibit serious defects without in such cases ceasing to be a real *res publica* altogether. Here is what Scipio says in book 1 of what he calls the three 'tolerable', although by no means 'perfect', types of government that he distinguishes (*Rep.* 1.42–3):

> Either a fair and wise king, or selected leading citizens, or the people itself – although that is the system of least merit, it can nonetheless achieve some sort of stability,[16] provided that injustices or greed do not find their way into

[14] Austin (1970 : 180).

[15] Büchner (1984 : 127).

[16] Cicero has just proposed that to achieve stability, any citizen body (*civitas*) needs to be guided by deliberation focused on the basic social imperative that caused its original formation. Such deliberation must either be placed in the hands of one individual or a select group, or else undertaken by the whole of the citizenry (*Rep.* 1.41–2).

> it. But in kingships, for the rest of the population there is too little communal *ius* and deliberative decision making (*consilium*). When aristocracies exercise domination, the mass of ordinary people can hardly enjoy any liberty at all, since they are deprived of all communal deliberation and of power. When all affairs are conducted by the people, with whatever justice (*iustum*) and moderation it may act, nonetheless equality itself is inequitable, because it allows for no degrees of distinction (*dignitas*).[17]

Scipio then amplifies his point by citing examples of all three systems in which the exercise of rule exemplifies the attributes he has just mentioned: Cyrus in Persia ('an exceptionally just and wise king'), the 'exceptionally just' aristocracy in Marseilles, and for quite a period the Athenians, after they had achieved a comprehensively democratic constitution (the system which he has deemed 'least deserving approval'). He emphasises that each of these governments was nonetheless marred by precisely those deficiencies that he has similarly itemised as characteristic of such regimes.

If we now ask whether the deficiencies that these kingships, aristocracies, and democracies exhibit are of type (A) or (B), the answer is clear. In these regimes, or at any rate in the exemplary cases Cicero instances, rule is exercised as it should be: 'justly', 'wisely', 'with moderation' is the vocabulary used. There is no reason to suspect (A) that the *res populi* is not being managed in the interests of the people, or indeed in accordance with the law. Just rule would presumably be most obviously manifest precisely because those ruling observe the law in doing so. The shortfall is evidently of type (B). In these regimes, the quality and degree of partnership in *ius* and/or advantage, even if the law is fully observed, leaves much to be desired. It begins to look as though *ius*, as Cicero means us to understand it in his definition of *res publica*, might not therefore be 'law'.

6.3 Democracy

The problem that democracy presents is perhaps the simplest to articulate. Democracy is a just and fair system – if you think that justice can straightforwardly be conceived as a matter of treating everyone equally. That was not what Cicero believed. To be sure, equal treatment under

[17] *nam vel rex aequus ac sapiens, vel delecti ac principes cives, vel ipse populus, quamquam id est minime probandum, tamen nullis interiectis iniquitatibus aut cupiditatibus posse videtur aliquo esse non incerto statu. sed et in regnis nimis expertes sunt ceteri communis iuris et consili, et in optimatium dominatu vix particeps libertatis potest esse multitudo, cum omni consilio communi ac potestate careat; et cum omnia per populum geruntur, quamvis iustum atque moderatum, tamen ipsa aequabilitas est iniqua, cum habeat nullos gradus dignitatis.*

the law was something he would himself insist upon. One needs only to read Livy, on the political conflicts between plebeians and patricians in the early days of the Roman republic, to become aware that 'equal liberty', and with that 'equalised rights (*iura*)', including the right to have a voice in government, was something Romans represented themselves as having won as one of the cornerstones of the *res publica.*[18] Cicero will accordingly in *De officiis* treat it as a commonplace that private individuals ought to live 'in fair and equal justice (*ius*) with the citizens' (*Off.* 1.124), and that 'equal justice (*ius*) is what people have always sought [i.e. from laws that should embody *aequitas*] – it cannot otherwise be justice (*ius*)' (*Off.* 2.42). In fact, in the latter passage he will claim that people of outstanding virtue were made kings at Rome precisely because it was thought that their power would ensure the enshrinement of *aequitas* in the law. Equal justice so conceived is presumably what Cyrus, the Massilian aristocrats, and the Athenian democracy are envisaged as dispensing. That is one major way in which they exercise their responsibility to ensure that the *res publica* is truly being administered as the *res populi.* And it must be what above all makes such regimes 'tolerable'.

The political egalitarianism of democracy, however, was for Cicero a different matter deserving different evaluation. If you think that a political system ought to acknowledge or reward merit or desert or distinction in the access it gives to power to elect or to govern, or in the weight it needs to carry in communal deliberation, as he assumes in the passage quoted above (and of course *dignitas* ranked high in Cicero's personal sense of entitlement), then there is a need for a conception of justice and fairness as they should operate in that sphere, whether as a matter of law or of political culture,[19] which is more complex than egalitarianism. In Cicero's own crisper formulation, in the political arena equality and nothing but equality is inequitable.

It subsequently transpires, however, that Cicero is prepared at least to toy with the idea that egalitarian arrangements could figure heavily in a political system which was perhaps a notch higher than merely 'tolerable'. That emerges in the final section of book 3 to survive in the palimpsest. Here a description is presented in positive terms of how at Rhodes all individuals equally assume the remunerated roles of senators and ordinary

[18] Wirszubski (1950: 9–15), Brunt (1988: 334–8), and Schofield (2015: 117–22).

[19] 'It is to be observed', said Wirszubski (1950: 12–13), 'that *dignitas* is a pre-eminence which does not rest on laws, nor on privileges; it is the esteem a worthy personality commands, "*alicuius honesta et cultu et honore digna auctoritas*"'. This slightly truncated quotation, from the specification of *dignitas* in Cicero's *De inventione* (2.166), translates as: 'A quality in someone that is honourable, and deserving of reverence and honour and respect (*et verecundia*) – authority.'

citizens in rotation over the course of the year, with senate and popular assembly accorded the same weight in decision-making (*Rep.* 3.48 [3.36 Powell]). These arrangements do not encapsulate any recognition of status or merit. But their consequence – though if Cicero's Scipio remarked on this, it will have been in the missing continuation of the text – is that citizens of higher status and merit will get their opportunity to make their voices count, in a senate charged with deliberative responsibilities (as a βουλή) and established as a real counterbalance to the larger popular assembly. This is in marked contrast to the position in Athens, once the Areopagus was deprived of its political powers (cf. *Rep.* 1.43). Access to power at Rhodes is egalitarian. Nonetheless, in their institutional arrangements for its exercise, the Rhodians had achieved a recognition that counting each for one and none for more than one without any qualification was not a good way to run a polity.

The type (B) deficit in democracy that is represented by the verdict 'equality is inequitable' is plainly conceived as a shortfall in justice, understood as an attribute of a political system as a system. We can therefore be confident that the *ius* which Cicero has in mind, when he defines a *populus* in terms of partnership *iuris consensu*, is or includes political as well as legal justice. We will find that conclusion confirmed if we consider next the deficits he identifies in aristocracy and kingship.

6.4 Aristocracy

The critical assessment of aristocracy that he offers is so damning as to prompt some wonder at the verdict 'not perfect, but tolerable'. Under the 'domination' of an aristocracy, Scipio states, the mass of ordinary people 'can hardly enjoy any liberty at all, since they are deprived of all communal deliberation and of power'. Scipio reinforces the verdict with the example of Massilia (Marseilles) where, although government is exercised *summa iustitia*, in the condition of the *populus* there is 'something rather like slavery' (*similitudo quaedam servitutis*). The talk of 'domination' and its antonym 'slavery' is reminiscent of the rhetoric of Roman populist leaders with which the pages of Sallust are punctuated.[20] It dramatises the point that under undiluted aristocracy there is virtually no significant political role to be played by the mass of ordinary people as a body. The reason why any *iuris consensus* would exist at all under such an aristocratic regime – as it must, if a system of that kind were to be a proper form of *res*

[20] Wiseman (2009 : 16–24, 59–68), Arena (2012 : 139–41, 151, 245–6), and Schofield (2015 : 114–15).

publica – would have to be motivated principally by general entitlement to equal legal justice.

The specific form of the disempowerment of the mass of ordinary people that Scipio is here envisaging is not spelled out. Such accounts of arrangements in Massilia as survive to us are no help (e.g. Arist. *Pol.* 6.7, 1321a29–31; Strabo 4.1.5). Something Scipio says a few pages later on in book 1 needs to be considered in this context. From *Rep.* 1.47–50 we find him articulating a case that might be made for democracy as the best constitution. One passage particularly relevant to the interpretation of the deficit in *ius* under aristocracy translates as follows (*Rep.* 1.47):

> How can liberty be equal (I won't speak about kingship, in which slavery is not even hidden or ambiguous) in those citizen communities (*civitatibus*) in which everyone is free in name only? They vote, they entrust commands and offices, they are canvassed and asked for their support, but they give what must be given even if they are unwilling, and they are asked to give to others what they do not have themselves. They have no share in power (*imperium*), in public deliberation (*consilium*), or in the panels of select judges, all of which are apportioned on the basis of pedigree or wealth.[21]

The nub of the complaint here is pretty well exactly the same as the specification of the shortcomings of aristocracy specified earlier at *Rep.* 1.43: there is no real liberty because there is no access to shared deliberation or to power. However, the constitutional regime presupposed in this argument for democracy is fleshed out a bit. It is not undiluted aristocracy. It makes provision for popular elections to offices of state. In other words, it is in this respect not unlike the Roman republican system, which in the account of the evolution of that system in book 2 Scipio will portray not as aristocracy, but as a mixed constitution. His recipe for the mixture does indeed (as the complaint alleges) reserve deliberation for the leading citizens (*principes*) (*Rep.* 2.57; cf. 1.69), mirroring the view he maintained of the role of the Roman Senate throughout his public career (e.g. *Verr.* 2.1.4; *Dom.* 102; *Phil.* 3.34), and theorised in a famous passage of the *Pro Sestio* of 56 BCE (137). The democratic argument here presented is in effect objecting: 'The idea that such a republican system strikes a balance between popular and elite power is a sham: the system is in reality nothing but aristocracy or oligarchy.'

[21] *qui autem aequa non est, omitto dicere in regno, ubi ne obscura quidem est aut dubia servitus, sed in istis civitatibus in quibus verbo sunt liberi omnes? ferunt enim suffragia, mandant imperia magistratus, ambiuntur rogantur; sed ea dant quae etiamsi nolint, danda sint, et quae ipsi non habent, unde alii petunt. sunt enim expertes imperi, consili publici, iudici delectorum iudicum; quae familiarum vetustatibus aut pecuniis ponderantur.*

But when Cicero speaks of aristocracy as such in the passage at *Rep.* 1.43, does he envisage a system more extreme than that presupposed in the democratic argument of *Rep.* 1.47? Perhaps he is thinking of a regime in which there would be no place for either of the two main forms of popular participation counterbalancing elite power that were given constitutional recognition by the Romans. Elections to offices of state would not be made at all by the people, as a body exercising their *ius suffragii* as citizens. Nor would they have the right – let alone the sole right – to pass legislation. Above all, if there were any office resembling the Roman tribunate that might act as a counterweight to the ruling aristocracy, its holders would doubtless be rendered powerless either to initiate legislation or to veto any act of that body: as indeed the dictator Sulla, a generation earlier than *De re publica*, had engineered by his constitutional reforms (subsequently soon overturned).

Whether Cicero envisages a regime of that nature (in which there is no popular participation in political processes at all), or one like the butt of the democratic argument of *Rep.* 1.47 (in which popular participation takes place, but is *de facto* ineffectual), then he might reasonably conclude that 'the mass of ordinary people' could indeed 'hardly enjoy any liberty at all' – that is, any of the rights (*iura*) that for Romans constituted political liberty, even though they might enjoy equal rights that should be recognised and upheld in civil actions before the courts. Cicero undoubtedly found anything of that nature an alarming prospect, albeit presumably 'tolerable' (if such an aristocracy were to be appropriately deemed a valid if flawed form of government). In *De legibus* he will defend the expediency of Pompey's restoration of the powers of the tribunate, against a sustained attack on them that he puts in the mouth of Quintus (*Leg.* 3.19–26; cf. 3.15–17).

6.5 Kingship

The case for democracy developed at *Rep.* 1.47–50 takes it for granted that under kingship 'enslavement is not even hidden or in doubt' (*Rep.* 1.47). But the deficit Cicero's Scipio specifies in his own assessment is 'too little communal *ius* and deliberative decision making (*consilium*)'. The *res populi* is ruled by the 'nod and wish of one man' (*Rep.* 1.43). At the same time, we recall that in *De officiis* Cicero will associate the institution of kingship with the assurance of equal *ius* guaranteed under the law – *par* or *aequabile* – as between those occupying positions at opposite ends of the social scale (*Off.* 2.41–2). And in book 2 of *De re publica* itself it is seen as a great

merit in a just and wise king that his rule will establish 'the security, equality (*aequabilitas*), and peace of the citizens' (*Rep.* 2.43).

Once again, as under aristocracy, what will motivate such *iuris consensus*, as is required if kingship is to be a proper form of *res publica*, will be the assurance of equal legal justice for individual citizens. But the shortfall that makes it merely 'tolerable' will – again, as with aristocracy – be the almost total deprivation of rights of political participation, whether by the people as a whole or by any constituent bodies, from everyone but the ruling power (here the king). In other words, individual citizen rights (*iura*) will be respected irrespective of social position, or if need be instituted, by a good king, but any communal political right (*commune ius*) will be present only vestigially under kingship.

None of the most accessible English translations of *De re publica* renders *commune ius* as 'communal right', although 'common rights' is what Jed Atkins gives – evidently intending 'communal' by 'common' – in his discussion of Cicero's definition in the chapter of *Cicero on Politics and the Limits of Reason* devoted to political society and citizens' rights.[22] The full context of the passage suggests that Scipio is meaning to appeal to a concept antithetical to the 'nod and wish of one man'. 'Communal right' fits the bill. The Loeb has 'the administration of justice', and Rudd 'the community's legislation', neither of which captures the implicit antithesis that *commune* makes with monarchy.[23] Zetzel writes 'shared justice':[24] interestingly, given his choice of 'law' for *ius* in the definition proposed by Scipio shortly before this passage on the three constitutions. That translation, like Fott's 'common justice',[25] keeps all options open, perhaps wisely if the translator's job is to eschew much interpretation, although given Fott's choice of 'right' for *ius* in the definition his rendering of the word here perhaps comes as something of a surprise.

6.6 *Ius* as 'Justice' or 'Right'

We have been pursuing an indirect, Austinian approach to what *iuris consensu* might mean in Scipio's definition of *populus*, by considering the deficits he identifies in the three 'tolerable' undiluted forms of *res publica*. If doing so has given us some convincing traction, then it begins to look as

[22] J. W. Atkins (2013: 135).
[23] Keyes (1927: 67) and Rudd (1998: 20).
[24] Zetzel (2017c: 19).
[25] Fott (2014: 48).

though the *ius* of the definition must be something like 'justice' or 'right'. This finding chimes with an observation that Büchner made in his posthumously published commentary on *De re publica.* He suggested that *ius* and *utilitas* in the context of the definition form an interlocked polarity like *honestum* ('honourable', 'morally admirable') and *utile* ('advantageous') in *De officiis.*[26] If so, 'justice' or 'right' looks a more convincing antonym for 'advantage' than does 'law'. It is also worth registering that translators of *De legibus* treat the rendering of *ius* – the central preoccupation of book 1 – by 'justice' as uncontroversial in that dialogue:[27] Zetzel, Rudd, and the Loeb are in no disagreement on that, although Fott elects for 'right' in places.

But for the conclusions that are emerging, we can also find further more specific support from another passage in book 1 of *De re publica*. After his initial general discussion of different constitutions or forms of *res publica*, Scipio gives detailed presentations of the arguments that proponents of each of the three basic systems of democracy, aristocracy, and kingship can or do advance. Here is a further extract from the case he puts for democracy (*Rep.* 1.49):

> Since law (*lex*) is the bond of citizen association, and the justice (*ius*) of law is equal (*aequale*), then by what justice can an association of citizens be held together, when the status (*condicio*) of citizens is not equal (*par*)? For even if making financial resources equal (*aequari*) is not appealing, even if everyone's mental capacities cannot be equal, the rights (*iura*) at any rate of those who are citizens in the same commonwealth ought between each other to be equal. For what is a citizen body (*civitas*) other than an association in justice?[28]

Any contemporary Roman would have been more than happy to embrace this argument, as articulating the very foundation of Roman civic order – provided that it is understood as pertaining to individual rights to be respected by the courts of law. The Loeb, followed by Rudd's Penguin, renders *iura certe* as 'legal rights at least', which sounds as though that is how they too understand the Latin.[29] But of course, to work as a rationale for democracy, the argument has to be taken more ambitiously, as appealing to a broader conception of what justice ought to consist in for those

[26] Büchner (1984: 124).

[27] But book 1 of *De legibus* operates with a Stoicised conception of *ius* more ethical than political.

[28] *quare cum lex sit civilis societas vinculum, ius autem legis aequale, quo iure societas civium teneri potest, cum par non sit condicio civium? si enim pecunias aequari non placet, si ingenia omnium paria esse non possunt, iura certe paria debent esse eorum inter se qui sunt cives in eadem re publica. quid est enim civitas, nisi iuris societas.*

[29] Keyes (1927: 75) and Rudd (1998: 22).

having the status of citizens considered as citizens. Otherwise it will not generate the conclusion that all citizens should have equal *political* rights.

The translation I offer is essentially identical with that given in Fott's version, except for my rendering of *civitas* in the last sentence (his 'city' does not sufficiently gesture at the word's root connotation of 'citizenship', which is more than implicit here).[30] Zetzel switches between 'right' and 'rights' for *ius*, except for the last sentence, where he has 'association of citizens under law' (similarly Elizabeth Asmis: 'partnership in law').[31] Making *ius* equivalent to law in, and (it would appear arbitrarily) only in, this final move in the argument destroys the logic, however. *Enim*, 'for', in that last sentence suggests an appeal to something taken to be already established. The obvious candidate is the content of the *cum*, 'since', clause of the opening sentence. The last sentence recapitulates the claim made there about equal *ius* as the key feature of the law (*lex*) that binds together citizen association. It needs to rely on that claim if it is to support, as it purports to support, the thesis that citizen rights ought to be equal. Presumably the choice of 'law' for *ius* at this point in the passage was driven by a prior decision to translate *ius* that way as it has occurred in the expression *iuris consensu* (in the definition of *populus*: *Rep.* 1.39). If we adopt an Austinian approach to the meaning of the definition, we will be likely to think that any such prior decision runs the risk of putting the cart before the horse.

In what survives of the renewed treatment in book 3 of the three basic forms of constitution, only two appearances of the term *ius* remain, one simply in a straightforward iteration – during a discussion of mob rule – of the idea of cohesiveness constituted by *iuris consensu* that figures in the original definition of *populus* (*Rep.* 3.45 [3.35 Powell]). The other occurs at a point where Scipio is arguing that under tyranny there can be no *res populi*, when there is no 'single bond of *ius* nor the *consensus* and partnership of a collection [of human beings], which is a people' (*Rep.* 3.43 [3.35 Powell]). In this reminiscence of that same definition, *ius* and *consensus* are now interestingly disjoined. At the same time, the mention of a 'bond of *ius*' puts one in mind of the reference in book 1's argument for democracy to *lex* (law) as 'bond of citizen association' (*Rep.* 1.49). In line with my interpretation of that passage, I would suppose that Cicero is now exploiting its implication that it is the equal justice guaranteed by law that is critical for its power to bind citizens together. A very similar nexus of ideas is what will subsequently be articulated in the *Paradoxa Stoicorum*, where having

[30] Fott (2014: 51).
[31] Zetzel (2017c: 22) and Asmis (2004: 580).

just referred to a *consensus populi liberi*, Cicero speaks of the recovery of the memory of *iuris et aequitatis, quae vincla sunt civitatis* (*Parad. Stoic.* 28): the coupling of *ius* with *aequitas* (fairness) reinforces the case for interpreting *ius* in such contexts as the justice in law.[32]

Zetzel might instead take the view that the substitution of *ius* (in this book 3 passage) for *lex* (*Rep.* 1.49) confirms the hypothesis that 'law' gives a better rendering of *ius* as it functions in the definition. What he certainly proposes (following Pohlenz) is that Scipio is now giving expression to a revised conception of law as 'the natural law that is the foundation of the universe itself', in agreement with the famous Stoicising delineation of *vera lex* that Lactantius preserves from Laelius's reply to Philus in the main part of book 3 (Lact. *Inst.* 6.8.6–9 [= *Rep.* 3.33]).[33] So far as I can see, however, the conceptual repertoire on which Scipio draws in his treatment of constitutions at the end of book 3 is in its fundamentals precisely the same as he had deployed in his original discussion in book 1 (*Rep.* 1.42–4). If *ius*, however translated, were to carry a revised connotation in the final part of book 3, one would expect to see some palpable signs of that. But there are none. Jed Atkins aptly comments (in the course of a discussion stressing Cicero's differentiation of the stances of Scipio and Laelius): 'Significantly, Scipio's treatment of the topic makes no reference to the sort of natural law theory that Laelius had just presented.'[34] Büchner, followed by Kohns, had already argued against Pohlenz that it would be unlikely that such a distinctive expression as *iuris consensus* would be meant to mean two quite different things in its two sole appearances in classical Latin literature.[35]

Asmis, who had favoured 'law' as the best way to render *ius* in *iuris consensu* in book 1, translates *unum vinculum iuris* (*Rep.* 3.43 [3.35 Powell]) as 'a single bond of justice'. However, she argues that the book 3 discussion of constitutions reflects a 'philosophical dissection of the concept of justice' not yet thought through in the treatment of constitutions in book 1. In her view, it indicates that 'the initial definition [i.e. of *populus*] needs to be revised by a new understanding of *ius*, "law", as "just law"'. And there certainly is an expression of intent to revise put in Scipio's mouth by Cicero. It comes a bit after his remark that under tyranny there is no 'single bond of *ius* nor the *consensus* and partnership of a collection [of human beings],

[32] I am grateful to one of Cambridge University Press's readers for drawing my attention to the parallel.

[33] Pohlenz (1931: 95) and Zetzel (1995: 21–2, 129; 1996: 311); cf. Asmis (2004: 595–6).

[34] J. W. Atkins (2013: 41). That is, no obvious reference at any rate in the fragmentary portion of Scipio's speech that has survived. What stance he might have taken on Laelius's Stoic conception of universal *lex* elsewhere in it, that is impossible to know.

[35] Büchner (1962: 78 n. 53) and Kohns (1974: 491).

which is a people' (*Rep.* 3.43 [3.35 Powell]). Scipio ends his treatment of tyranny by observing that where there is a tyrant, we have not a bad *res publica* (as he had said 'yesterday', i.e. in book 1), but no *res publica* at all. Asmis suggests that the notion of justice is now being newly incorporated into the notion of *ius* as it figures in the definition.[36]

We need to consider this diagnosis of what is involved in Scipio's revision in the light of the deficits he had identified at *Rep.* 1.43 in the 'tolerable' but not 'perfect' constitutions. From the examination of these conducted in Sections 6.3–6.5 above, it was clear that the shortfall in every case was one of justice: in communal political rights of participation. Because these appeared to be regimes in which individual legal rights were institutionally embedded, however, it seemed probable that there was still a degree of *iuris consensus.* If that assessment of the 'tolerable' systems was correct, then we must conclude – contra Asmis's proposal – that *iuris consensus* was from the outset conceived as a matter of justice and rights.[37] Her proposal is actually hard to square with her own comment a little later in her paper: 'As Cicero makes clear in the argument that follows [the definition], this [*consensus iuris*] turns out to be a robust commitment to treating one another with justice.'[38]

Scipio's stress on the *iustitia*, or the absence of 'injustices or greed' (*iniquitatibus aut cupiditatibus*), in the way the *res populi* is treated by governments reinforces the impression that a concern with justice is what drives his entire treatment of the *res publica*, whether in considering deficiencies of type (A), where not *ius* (the justice or fairness of the constitutional system), but the virtuous or vicious conduct of governments (*iustitia* or *iniustitia*) is the issue, or of type (B), where threats to *iuris consensus* are the problem. That point is further confirmed when at the end of book 2, Scipio compares the consensus of the different social classes in a *civitas* (a citizen body) with a musical harmony, as the best bond of security for any *res publica* (i.e. avoiding the most dangerous deficiencies of type [B]), and states that this is impossible without *iustitia*, as exemplified in the ideal statesman and then mirrored in the lives of the citizens (so avoiding abuses of type [A]) (*Rep.* 2.69).

It is therefore not probable that the revision Scipio adumbrates was conceived by Cicero as crucially involving a 'new understanding' of the

[36] Asmis (2004: 588–9). She goes so far as to describe the initial definition as 'morally neutral': Asmis (2005: 401).

[37] As Büchner's note on *Rep.* 1.43 well brings out (Büchner, 1984: 127).

[38] Asmis (2004: 594).

justice dimension of *ius* in the definition of *populus*. Nor does it appear that in book 3 (*Rep.* 3.43–5 [3.35 Powell]) he takes a different view of what is wrong in regimes such as tyranny, junta, and mob rule from that assumed in book 1 (although the book 1 discussion at *Rep.* 1.44 breaks off mid-sentence in the palimpsest). Cruelty, arbitrariness, freedom from curbs on exercise of power, and pursuit of factional interest are stressed in both contexts (these are presumably viewed as 'injustices', *iniquitates*, but – contrary to what Asmis seems to suggest – that has to be taken as read, again in both contexts). What is different is not that in book 3 Scipio revises the interpretation of his definition as such, but simply that (as Augustine perceived) he makes the definition's notions of *res populi* and of *populus* itself now do some further critical work that by his own account he had not made them do in book 1. When tyrants, juntas, and mobs take control, the *populus* loses any effective ownership of its *res* – the *res populi* that constitutes the *res publica.* There is in fact then no *res populi* at all (*Rep.* 3.43, 3.44 [3.35 Powell]). Nor indeed does there remain any *consensus*, nor the bond of *ius* (*Rep.* 3.43, 3.45 [3.35 Powell]). Therefore, properly speaking no *populus* continues in existence. Therefore, on both counts such regimes are disqualified from constituting forms of *res publica.*

6.7 *Iuris consensu* Again

Yet if *ius* in the *De re publica* definition is something like 'justice' or 'right' (Neal Wood's rendering was 'what is right and just'),[39] we have still to tackle the problem, broached in Section 6.1 above, of what Cicero meant by the expression *iuris consensu*. As with the meaning of *ius* itself I shall take an indirect approach to the issue. I can best articulate its stages as a sequence of reflections:

1. In Section 6.1, we noted that in his contemporaneous speech of 54 BCE on behalf of Gnaeus Plancius, Cicero used the phrase '*consensus* and partnership (*societas*) in deliberations and intentions': there is no surer bond of friendship, he says (*Planc.* 5). That pairing of *consensus* and *societas* prompts a brief look at the way *societas* functions in contexts in *De re publica* other than the definition itself (where the two ideas are also conjoined: *consensus … sociatus*). For example, in a passage near the end of the dialogue, *civitates* (citizen bodies) are characterised as 'councils and collections of human beings *iure sociati*'

[39] Wood (1988: 126).

(*Rep.* 6.13 [6.17 Powell]). The same conception of *civitas* figured in the case for democracy presented in book 1 (*Rep.* 1.49: *iuris societas*). These instances might suggest that talk just of partnership (*societas*) in *ius* is what Cicero generally took to capture adequately the idea he wanted to communicate in the initial definition of *res publica* (cf. also *Leg.* 1.35: *societate iuris contineri*, asserted as something common to humanity at large).

2. To say of a collection of people that they are *iure sociati* seems best understood as a claim that they are 'joined as partners in and through justice or right': justice (as something to which they all have access) or right (as something that they can all exercise) is what provides the basis of their association. That basis of association is what is described by Scipio in book 3 as the 'one bond of *ius*' (*Rep.* 3.43 [3.35 Powell]): justice or right is what locks people together. The association itself can then be said to be a 'partnership of justice or right' (*iuris societas*) – or, more comfortably in English, a 'partnership in justice or right'.
3. It seems reasonable to assume that the definition of *populus* in book 1 is designed to indicate the constitutional basis on which its status as a fundamental political entity is based. If *ius* is 'justice' or 'right', not 'law', it seems similarly reasonable to conclude that it is through the concept of *societas* as 'partnership' that Cicero conveys the constitutional character of the *populus* to which a Ciceronian *res publica* belongs. Recent scholarship discussing partnership (*societas*), particularly relative to Cicero's deployment of the idea in *De re publica*, has stressed its contractual status in Roman law.[40] 'Partnership' as it occurs in the definition might at any rate suggest something contractual. However, the definition itself focuses not on partnership's formal status, but on what it consists in: in *consensus* and *communio.*
4. Given (1), (2), and (3), that definition of *populus* can then be read as a more careful and elaborate formulation of essentially this same idea of 'partnership in justice or right'. Hence firstly, the elaboration of inclusion of a reference to advantage as well as to justice or right, access to advantage being expressed in terms of 'sharing in' (*communio*, with its standard genitive construction). Hence secondly,

[40] On *societas* as 'partnership' in Roman society, and its legal connotations, see Asmis (2004: 580–2), Harries (2006: 24–5, 230–5), J. W. Atkins (2013: 134, 139–41), and Brouwer (2017: 35–6). See further Section 6.8 below.

the choice of *consensus* to govern 'justice' or 'right'. For justice or right, it is not enough to require sharing. Those who are participating need to *agree* that they are sharing in justice or right. *Consensus* (with parallel but highly unusual genitive) will then be best interpreted as 'unanimity in justice or right'.[41]

5. *Consensus* is – as often – 'unanimity'.[42] *Consensus* is not to be identified with the consent of the governed, as Asmis and Atkins point out. It is 'a shared position', 'common agreement in a shared position' between fellow citizens, whether ruling or ruled.[43] Throughout books 1 and 2 of *De re publica*, Cicero, like many ancient political theorists, sets a premium on harmony between the different major constituencies in the society, based (as he puts it) on a system 'equitable towards all the orders of the citizen body' (*Rep.* 2.62): leaders, the aristocracy and the wealthy, and the general mass of the population. His preferred 'tempered' and 'balanced' mixed constitution (*Rep.* 1.69, 2.57, 2.69) represents the ideal. But some degree of unanimity in justice or right between the three elements is needed if the political system is to qualify as a *res publica* at all.

In sum, those joined in the partnership that constitutes a people count as such partly through sharing in advantage,[44] and partly through achieving unanimity *because they have access to justice or can exercise rights*. There are effectively two elements in this latter requirement: (i) access to justice or the ability to exercise rights, and (ii) unanimity, or at any rate a degree of unanimity, thanks to (i) and focused upon (i). Condition (ii) in effect

[41] Here 'justice or right' effectively means 'possession of justice or right' – as when Scipio says that under kingship there is 'too little communal right' (*Rep.* 1.43), or when in *De officiis* Cicero argues: 'Equal justice (*ius*) is what people have always sought' (*Off.* 2.42).

[42] Cf. Ando (2010a: 203). Nicgorski (2016: 178–9) argues that Cicero cannot be envisaging a need for unanimity, because under mob rule (*Rep.* 3.45) it is the majority who do what they will. Therefore, 'he must imply the majority principle as the ordinary means of consent'. But Cicero is interested not in *consensus* as such, but only *consensus iuris*. The mob, as his Laelius describes it at this juncture, plainly has no interest in *ius* or in anybody's rights. And talk of 'the majority principle' introduces a concept at home in modern, but not ancient, political thought. Indeed with Ando one might see Cicero's formulation of the idea of the 'consensual commitment to a particular normative order' inherent in his idea of a *populus* as in effect forestalling any attractions it might have had.

[43] Asmis (2004: 578) and J. W. Atkins (2013: 151). In Nicgorski's often helpful discussion of *De re publica*'s definition (Nicgorski, 2016: 168–83), adoption of the vocabulary of consent, with its Lockean echoes of the Founding Fathers, imports alien concerns into Cicero's theoretical frame of reference.

[44] In what survives of *De re publica*, Cicero has very little to say about the shared *utilitas* of a *res publica*, except for an initial sketch shortly after he gives the definition (*Rep.* 1.41). As Wood points out, he had defined *utilitas* in the early *De inventione* (2.168–9; cf. Wood, 1988: 128–9). The opening paragraphs of the main body of book 2 of *De officiis* (after the preface) are also pertinent (*Off.* 2.11–17).

indicates that condition (i) will not be deemed to be satisfied unless there is agreement that it is satisfied across all sectors of the society, despite great disparities in wealth, status, and power (cf. *Rep.* 2.69).

Interpreted in this way, is *iuris consensu* an objective or a subjective genitive construction? One might initially be tempted to argue that the parallel phrase *utilitatis communione*, which is straightforwardly an objective genitive, pushes the interpretation of *iuris consensu* in the same direction. Perhaps it does, and perhaps it lends support to the view, argued here, that justice is being conceived as an independently existing value – no less so than advantage. But it might be better to reflect on the one hand that the basic function of the Latin genitive is just to express relationship of some kind, and on the other that grammarians' categories do not always capture flexibility or indeterminacy in language. This is a *consensus* that is *characteristic of* or *belongs to* access to justice or the ability to exercise rights. It is both the outcome of such access or ability (and so perhaps represents one kind of use of the subjective genitive) and a state of mind focused on access to justice or ability to exercise rights (so perhaps counts as a kind of objective genitive).

6.8 Concluding Remarks

Fundamental to a citizen body or people is a guarantee in its constitutional arrangements of access to justice or ability to exercise rights. Justice or right, above all, is what binds the society together in partnership. Agreement is secondary, in the sense that it is dependent upon general acceptance that all citizens have access to such justice: Cicero is not propounding the sort of contract theory of the state which makes justice a function of the contract.[45] Nor is he any sort of conventionalist about justice. For him justice has an objective validity: which was presumably the conclusion the reader is meant to draw from the debate subsequently staged in book 3 between Philus and Laelius, and is something he will argue vigorously in *De legibus* (1.40–8). But agreement on the part of all the main constituent sectors of society that they have appropriate access to justice so conceived is also

[45] When Cicero wishes to invoke the connotations of political contract theory (well developed in antiquity by Sophists and Epicureans, and echoed in Plato), he uses appropriate vocabulary entirely absent here, as in the talk of *pactio … inter populum et potentis* to which Philus resorts, in defending a conventionalist account of justice in book 3 (*Rep.* 3.23 [3.17 Powell]). Brouwer (2017: 37–8) compares the συνθήκαι and ὁμολογίαι between city and citizen elaborated in Plato's *Crito* (51c–53a). Not only does Cicero not replicate this vocabulary, but he does not extract the sort of contractual consequences which the *Crito* exploits. Nor is he envisaging (like Plato's Socrates) agreement between the individual and the state, but a *consensus universorum* of the major constituencies of the citizen body: the *concordia ordinum* (cf. Pittet, 1955: 45).

essential. Without such agreement, uniting the different elements in society, there will be no properly constituted people.

How is that agreement to be achieved? It will be generated, Cicero seems to suggest, by the guarantee of justice that consists in law. That appears to be the way that he connects with law the justice or right that figures in the expression *iuris consensu*. At any rate, it is law as constitutional guarantee of justice that is signalled in the premise articulated in the case Cicero works out for democracy – but presumably taken to be uncontroversial – that 'law (*lex*) is the bond of citizen association' (*Rep.* 1.49; see Section 6.6 above). The need for the 'bond which first bound humans together in the association or partnership of the *res publica* to hold fast', for any form of political system to be at least tolerable (*Rep.* 1.42), is presumably likewise a reference to the justice guaranteed by law. At any rate, Scipio supports his claim by making it clear that he has in mind government in which 'injustice or greed have not forced their way in'. In other words, the unanimity or agreement which Cicero has in mind is not focused (as Zetzel and Asmis propose) *on* law. Law is rather what *produces* agreement by virtue of the guarantee of justice that it constitutes.

It must therefore be in the term *sociatus* (rendered in Section 6.1 as 'joined in partnership'), and echoed by *societas* in the case made for democracy (rendered in Section 6.6 as 'association'), that we should find in the definition an indication of a legal underpinning for the *iuris consensus*. Cicero clearly thought the association constituted by the *res publica* was comparable with that exemplified by the family and wider kinship groups (*Off.* 1.57–8), and held that tyranny is a disruption brought about when someone desires not merely no part in shared justice with his own fellow citizens (cf. *Rep.* 1.39), but in the end with the entire human race nothing of that association intrinsic to human nature (*humanitatis societas*) (*Rep.* 2.48; cf. *Off.* 3.27–32). But whereas that sort of 'sociability is natural', only 'a consensus between citizens can provide the basis for a *res publica*', no doubt usually hard won, as in the Struggle of the Orders that was believed to have resulted in the Twelve Tables.[46] And the word *societas* was employed in other ways (see Section 6.7). As Asmis and Zetzel point out, the language of *societas* was also used of a business partnership, undertaken for mutual benefit and relying on legally binding consent of one form or another – operated as a *bona fide* contract – by the partners.[47]

[46] Moatti (2015: 268).

[47] Asmis (2004: 580–2, 597–8) and Zetzel (2013: 431–2, 437–40); cf. Harries (2006: 24–5, 232). The notion of *bona fides* had been identified by the great jurist Quintus Scaevola as one of the associations 'of life' – i.e. those which make the transactions on which social life depend possible (*Off.* 3.70).

Since Cicero clearly sees the establishment of law and its institutions as what underpins the association making the 'consensus of justice' a reality, the association constituting the *res publica* does for that reason bear some analogy with a business partnership sustained by *bona fide* contract, 'linking the strength of civil society to the moral component in private commercial dealings'.[48] Both have a legal basis assuring those associating that they will be treated justly and share benefit. But if Cicero himself had been wishing to exploit an implication that the *societas* of the *res publica* was underpinned by a contract in any literal sense,[49] one might perhaps have expected rather more to have been said about (for example) mutuality and the benefits different parties bring to the arrangement.

James Zetzel's survey of the uses of *ius* in Latin, quoted above at the start of Section 6.2,[50] provides indication enough that it was always going to be difficult to judge whether the 'justice' or 'law' connotation of the word is the more salient in the definition. The problem is compounded by the intimate relationship that holds between law and justice: the point of law is to guarantee justice, while justice cannot be assured without law; and, of course, Cicero needs both ideas to figure in his basic account of the *res publica.* On the interpretation offered here, 'justice' is what is explicitly conveyed by *ius* in the definition (*Rep.* 1.39). A reference to law is only implicit, conveyed by *sociatus* and its legal resonances. It becomes explicit only in associated discussion, as in the case for democracy mounted not long afterwards (*Rep.* 1.49).[51]

[48] Zetzel (2013: 440).

[49] So Harries (2013: 120), taking *iuris consensu* in Scipio's definition as 'by legal consent'. Zetzel, having summed up his interpretation as: 'Neither private contract nor social contract is effective without *bona fides*', then qualifies the statement: 'Reference to the social contract in the previous paragraph is anachronistic' (Zetzel, 2013: 440).

[50] Zetzel (2017c: xxxiii).

[51] I am grateful to one of the readers for Cambridge University Press, for a number of corrections and helpful suggestions.

CHAPTER 7

The Psychology of Honor in Cicero's De re publica

Margaret Graver

Among Cicero's contemporaries, it was *De re publica* that made his reputation as a philosopher. The work's popularity at Rome is attested already in May of 51, in a letter by M. Caelius Rufus: *tui politici libri omnibus vigent*, he writes to Cicero in Cilicia, 'your volumes on the state are all the rage'.[1] That indication of success must have been welcome news to Cicero at every level, for *De re publica* was as much a part of his political program as it was of his intellectual life. Restricted in his political activities since the Council of Luca in 56, he had begun writing treatises not only for his own intellectual satisfaction but also as a way to cultivate his image. First in *De oratore* and then in the equally elaborate and ambitious *De re publica,* he had put on display those personal characteristics that were his claim to prominence: his elegant education, his formidable intellectual energy, and his knowledge of Rome's history and traditions. In the latter work especially, he had also deployed his extensive familiarity with Greek philosophy, establishing credentials as a theoretician of public service to support his mixed record as a practitioner.

The unstated application to Cicero's own situation draws attention to those passages in *De re publica* that reflect on the figure of the philosopher-statesman.[2] More particularly, it lends additional interest to what the work has to say about the motives that induce well-qualified leaders to participate in public life. Picking up on an idea from Plato's *Republic*, Cicero argues that the good leader must ultimately be acting on philosophical reasons grounded in a correct understanding of what is best for the state. But this cardinal principle is combined with a second, related theme: that

[1] *Fam.* 8.1.4 = 77 SB. For background and chronology see Mitchell (1991) and Marinone and Malaspina (2004).

[2] There is a vast literature on the relationship of Cicero's ideal statesman figure to Cicero's politics. Some discussions that I have found helpful are Powell (1994), Ferrary (1995: 51–3), Steel (2005: 75–82), and Zarecki (2014). For Cicero's overall aims in the treatise see especially J. W. Atkins (2013).

of honor and glory as rewards for public service, and of the attitude that political agents should take toward those rewards. This theme, too, was present in Plato's *Republic*, but here there is obvious relevance to the political life of Rome, where *honos* was the usual term for elected office, and where celebratory speeches, placards, statues, and other forms of public recognition were the usual rewards for exceptional public service.[3]

Cicero had written on honor already in his published speeches, notably in the *Pro Sestio*, where an orientation toward *vera gloria* proves to be the saving grace both for Sestius and for his advocate. The references to his own experience are there quite explicit: the acclamation as *pater patriae*, the ignominy of exile, the undying glory he hoped to win by continuing to serve the state.[4] 'Did I not know that the span of life is short, that of glory everlasting?' he wrote (*Sest.* 47),[5] and 'How rarely does one find a man of sufficient virtue to embrace the cause of the republic, to devote himself to the service of good men, to seek the glory that is solid and real!' (*Sest.* 93).[6] In *De re publica*, the autobiographical element is much less in evidence, and the philosophical tradition has had more of an influence. That much is clear, but the coherence of Cicero's thought is much more difficult to discern, both because of the incomplete preservation of the work and because of the complexity of its argument. It requires considerable effort to pull together the scattered pieces of his reflections and to trace even a few of the connections to books that he had read. But the effort is worth making, for it is in this work that Cicero first develops a sophisticated account of the place of the honor motive in a good life, and above all in the good life of public service.

The philosophical interest that attaches to the topic is evident in Cicero's later writings. We find it, for instance, in *De finibus* 2.45, 3.10, and 3.26, where the status of honorable conduct (*honestum*, the καλόν of Greek ethics) is made the linchpin of the entire discussion, with arguments founded on the relation between honor and praise (*Fin.* 3.28–9, 4.48–50). We see it again in *Tusculan Disputations* 3.2–3, where a failure to distinguish honor

[3] Work on the *ethos* of glory and honor in Rome's political class goes back to Knoche (1934); a more recent study is Barton (2001). For the theme in Cicero see Sullivan (1941), A. A. Long (1995a), Nicgorski (2016: 223–33–), Graver (2016), and Schofield (2021: 166–70).

[4] For the rhetoric of Cicero's self-depiction in the speech see especially Kaster (2006: 25–31) and J. M. May (1988: 88–105).

[5] *nesciebam vitae brevem esse cursum, gloriae sempiternum.*

[6] *quotus quisque invenietur tanta virtute vir, qui optimam quamque causam rei publicae amplectatur, qui bonis viris deserviat, qui solidam laudem veramque quaerat?*

from glory is the most insidious form of epistemic corruption, as well as repeatedly in *De officiis*. In these and related passages, the philosophical treatment of reputational goods is found in association with Stoic material.[7] With close attention to the surviving evidence, though, we can see that many of the points made in the writings of the 40s are already at issue a decade earlier in *De re publica*, and are connected there not only with Stoic but also with Platonic and Peripatetic texts.

It is plausible that Cicero's interest in the psychology of political leaders was first roused by his reading of Plato's *Republic*, with its denial that philosopher-rulers are ever motivated by honor.[8] Like Plato, Cicero conducts a searching examination into the honor motive, including its negative as well as its positive effects. He does not follow Plato, however, in making it a universal and ineliminable drive that is distinct from the motivations of reason. His treatment of the underlying psychology is more like that of the Stoics, for whom the human being's initial orientation toward the approval of others may develop either into an unhealthy desire for glory or into an appropriate though secondary motivation for the virtuous leader. Also reminiscent of Stoicism is a view that must have been put forward in the early part of book 4 (as will be argued here): that popularity with the people is deeply implicated in the process of epistemic corruption. As so often in *De re publica*, Cicero's reflections on this topic are broadly Platonic and yet filtered through and modified by subsequent Stoic thought.[9] But his own experience in politics has also given stimulus to his reflections; and conversely, the philosophical position on honor that he develops in his writing becomes part of his self-representation as a public figure.

7.1 The Madman's Choice and Its Reward

At the very beginning of *De re publica* and again near its ending, Cicero concerns himself directly with the choice that he and others have made to serve the interests of the wider community in preference to the pursuits of leisure. The opening section of the authorial preface to book 1 is now lost;

[7] For this material see Graver (2012, 2016); on *De officiis* (e.g. 1.14, 1.65, 2.43) also A. A. Long (1995a) and Schofield (2021: 166–70). There was also a treatise *De gloria* in two books. That work is now lost but is referred to in *Off.* 2.31; for the fragments, see Garbarino (1984: 61–4).

[8] Plato, *Rep.* 1.347b; see further below. For Cicero's direct familiarity with Plato's works see A. A. Long (1995b) and Boyancé (1970: 222–47).

[9] Though often noted, the Stoicizing element in *De re publica* is stressed especially in Colish (1985: 1.89–97).

in it, Cicero may have referred to himself as 'a companion of Plato'.[10] We soon learn, however, that his relationship to Plato is by no means straightforward. For at the point where the extant text begins, we find him already arguing against an identifiably Platonic conception of the philosophical life. His target is the idea promoted in parts of the *Republic* of the philosopher's preferred existence as a life of pure study removed from all political activity.

We can pick up the thread of Cicero's argument in section 1 of the preserved text, where he speaks of the examples of Rome's great leaders and in particular of the choice made by Cato the Elder to serve the state rather than enjoy a quiet life at his villa in Tusculum. Some regard Cato as a madman, he says, but he himself does not agree. In his view, a yearning to protect and promote the welfare of the community is instinctive in human beings: It is 'a need bestowed by nature' (*Rep.* 1.1).[11] He argues, too, that the difficulties and dangers public service entails are no reason to hold back from it. Philosophers who say this are disingenuous, for they themselves are not reluctant to face the dangers of travel for the sake of study or tourism. Moreover, it is impractical to say that 'the wise person will take no role in politics unless compelled by a moment of need' – in other words, that philosophers could always step in and take over if a crisis arose (*Rep.* 1.10).[12] For a time of crisis would require a skilled leader, someone who has acquired ample experience in governing during quiet periods.

All this engages with a long-standing discussion among Greek philosophers. What is the most rational way to spend one's years of life: in service to the community, or in study and contemplation, or in what is most pleasurable for oneself? In the later Hellenistic period it was especially the Stoics who encouraged political engagement, while Epicurus and his followers preferred private life. But the same issues were discussed among the early followers of Plato and Aristotle, and it is those earlier treatments that have especially influenced the case Cicero is making here.[13] In particular,

[10] Plin. *NH praef.* 22: *Platonis se comitem profitetur.* The fragment is given as Fragment 1b in Ziegler's edition, following Pohlenz; however, there is no compelling reason for this placement. In Powell (2006: 369) it is listed as Testimonium 17.

[11] *necessitatem … a natura [datum]*; *Rep.* 1.3: *ipsius naturae stimulis incitamur.*

[12] *negant sapientem suscepturum ullam rei publicae partem, extra quam si eum tempus et necessitas coegerit.*

[13] Because the *exceptio* at *Rep.* 1.10 resembles the Epicurean position as sketched by Seneca in *De otio* 2, some interpreters have been inclined to assume that Cicero's quarrel in the preface is specifically with the Epicureans: so Pohlenz (1931: 74–5), followed by Lühken (2003) and others. But an emphasis on the pleasures of study within the Platonic-Aristotelian tradition had already drawn a charge of hedonism from Chrysippus (in Plut. *St. Rep.* 1033D); see Bénatouïl (2007: 1–13). Further to the issue see Boyancé (1970: 102–4 and 184–6), Grilli (1971: 15–25 and 89–102); R. Müller (1989), and Blößner (2001: 213). For the debate among Hellenistic philosophers more generally, see Bénatouïl and Bonazzi (2012).

he was interested in the writings of the Peripatetic historian Dicaearchus of Messana, who had advocated for the life of action on grounds that one should always do what is most honorable.[14] A few years earlier, when writing privately to Atticus, Cicero had voiced his frustration with the politics of the day by declaring a preference for Theophrastus, who favored the life of study and contemplation.[15] In the long term, though, his views aligned rather with those of Dicaearchus. In the public declaration that is *De re publica*, he rejects the contemplative, potentially solipsistic notion of philosophical commitment and takes up the position in favor of political involvement.

He thus represents himself as an intellectual leader of a very different kind from Plato. Influenced, perhaps, by Dicaearchus's biography, he here regards Plato as a brilliant inquirer into theoretical issues who chose not to become involved in practical problems faced by his community.[16] That choice by the Greek philosopher is criticized, albeit obliquely, quite early in the preface to *De re publica*, when Cicero criticizes those who shun the dangers of public life but nonetheless 'cross the seas for the purposes of study and tourism' (*Rep.* 1.6).[17] The point of this is perhaps not immediately clear, but it is revealed lower down, when Scipio refers explicitly to Plato, saying that after Socrates died, Plato 'traveled for the purpose of study, first to Egypt, and then to Italy and Sicily, to learn thoroughly the discoveries of Pythagoras' (*Rep.* 1.16).[18] In this regard, Plato serves as a foil to Cicero's authorial self. For Cicero also gestures toward his own case: Although he finds the life of studious leisure even more agreeable than

[14] For Dicaearchus's views and for Cicero's engagement with them, see *Att.* 2.2.2 = 22 SB, 2.12.4 = 30 SB, 2.16.3 = 36 SB, 7.3.1 = 126 SB; with Shackleton Bailey's notes *ad loc.* and with McConnell (2014: 115–56; 2012), Lévy (2012a and 2012b), Huby (2001), and R. Müller (1989).

[15] *Att.* 2.16.3 = 36 SB, written in May of 59. Although the views of Theophrastus on this issue are not attested in his own words, Cicero's remarks in *Att.* 2.16.3 and *Fin.* 5.11 suggest that he agreed with Aristotle in *Nic. Eth.* 10.7, where the life of philosophical study confers a special kind of pleasure. See Bénatouïl (2012) and McConnell (2012: 312–16). One might have expected that Theophrastus's position would be favored by Atticus, who considered himself an Epicurean, rather than by Cicero. In this epistolary context, however, Cicero claims that side of the controversy for himself, to emphasize that he is fed up with the life of action.

[16] Cicero shows knowledge of Dicaearchus's biography in *Tusc.* 4.71. For Dicaearchus's conception of Plato's career and achievement see S. White (2001: 227–8). In other contexts, Cicero could represent his relationship to Plato quite differently. As Sean McConnell has shown, he was familiar with both the 5th and the 7th Platonic letters and sometimes alludes to them in his correspondence as a parallel for his own political situation (McConnell, 2014: 33–61). For Cicero's self-representation in the preface to *De re publica* see Schofield (2021: 14–16).

[17] *cum ipsi discendi aut visendi causa maria tramittant.*

[18] *Platonem … primum in Aegyptum discendi causa, post in Italiam et in Siciliam contendisse, ut Pythagorae inventa perdisceret.* The notion of travel for the sake of study is strongly associated with Plato also in later works: see *Fin.* 5.50; *Tusc.* 4.44.

most people do, he has not hesitated to subject himself to danger and hardship for the sake of his country.

In addition to these biographical points, Cicero differs from Plato on the theoretical question of whether a true philosopher will willingly assume the burdens of statesmanship. In book 1 of the *Republic*, Plato allows Socrates to speak as follows (*Rep.* 1.347b–c):

> Good people are not willing to govern either for the sake of money or for the sake of honor. For they do not want either to receive wages for their governing and be called wage-earners, or to compensate themselves secretly from it and be called thieves; then again, they do not want to govern for the sake of honor, for they are not lovers of honor (φιλότιμοι). So one has to impose some compulsion on them, and a penalty, if they are going to be willing to govern.[19]

Cicero was dissatisfied with the claim that a good person would need to be compelled to rule. In the preface to *De re publica*, he alludes to it when he notes that Cato the Elder chose to enter public life of his own accord, 'although no compulsion drove him to it' (*Rep.* 1.1).[20] Writing in *De officiis* a decade later, he expands the point (*Off.* 1.28):

> In Plato, it is said that philosophers are just because they spend their time in the search for truth, and because they set no store by the things that most people strive for and fight over. But this may not be enough. For they attain to justice in one sense of the word, in that they do not actively harm anyone, but they fall short of it in the other sense: impeded by their pursuit of learning, they abandon those people they ought to protect. That is why he says that they do not get involved in political life except under compulsion. It would be better, though, that they should do so voluntarily. For even the correct action is not just unless it is voluntary.[21]

[19] διὰ ταῦτα τοίνυν, ἦν δ' ἐγώ, οὔτε χρημάτων ἕνεκα ἐθέλουσιν ἄρχειν οἱ ἀγαθοὶ οὔτε τιμῆς· οὔτε γὰρ φανερῶς πραττόμενοι τῆς ἀρχῆς ἕνεκα μισθὸν μισθωτοὶ βούλονται κεκλῆσθαι, οὔτε λάθρᾳ αὐτοὶ ἐκ τῆς ἀρχῆς λαμβάνοντες κλέπται. οὐδ' αὖ τιμῆς ἕνεκα· οὐ γάρ εἰσι φιλότιμοι. δεῖ δὴ αὐτοῖς ἀνάγκην προσεῖναι καὶ ζημίαν, εἰ μέλλουσιν ἐθέλειν ἄρχειν.

[20] *cum cogeret eum necessitas nulla*. We catch an echo of the Hellenistic debate also in Cicero's observation that Cato served his country to advanced old age (*ad summam senectutem*, *Rep.* 1.1). An obligation to remain active to the very end of one's life was an element of (at least) the Stoic position: cf. Sen. *De otio* 1.4; *Ep.* 68.1.

[21] *itaque videndum est, ne non satis sit id, quod apud Platonem est in philosophos dictum, quod in veri investigatione versentur quodque ea, quae plerique vehementer expetant, de quibus inter se digladiari soleant, contemnant et pro nihilo putent, propterea iustos esse. nam alterum [iustitiae genus] assequuntur, ut inferenda ne cui noceant iniuria, in alterum incidunt; discendi enim studio impediti, quos tueri debent, deserunt. itaque eos ne ad rem publicam quidem accessuros putant nisi coactos. aequius autem erat id voluntate fieri; nam hoc ipsum ita iustum est, quod recte fit, si est voluntarium.* Dyck (1996: 123) observes that the passage refers to Plato, *Tht.* 173e as well as to Plato, *Rep.* 1.347b.

In contrast to Plato's Socrates, Cicero holds that philosophers are not morally justified in abstaining from political action merely because of their interest in theoretical matters. Participating in the affairs of state merely because forced to do so by some threatened penalty would not, in his view, be sufficient acknowledgment of the obligation they have to protect their fellow-citizens.[22] He will not consider them to be just in the fullest sense of the word unless they act voluntarily (*voluntate*). That is, they need not only do the right thing, but do it for the right reason. Rather than acting to avoid a disagreeable alternative, they should be actively choosing to help and protect their communities.

In *De re publica*, the interest in internal motivation is evident already in the first paragraph of the extant text, where, as noted above, the yearning to promote the common welfare is 'a need bestowed by nature' (*Rep.* 1.1), and those who serve the common good are 'urged on by the spurs of nature itself' (*Rep.* 1.3).[23] These, however, are merely instinctive urges, present in all human beings, of a kind with those referred to in *Leg.* 1.30 as 'inchoate notions' (*inchoatae intellegentiae*) and in *Tusc.* 3.2 as 'little sparks' or 'seeds of the virtues' (*parvulos igniculos … semina virtutum*). There is a further explanation that needs to be given for why, in some individuals, the innate promptings develop into the full motivations belonging to justice.

In what follows, I contend that the human being's natural interest in the approval of others has an important role to play in that development. Although Cicero's account of the psychological bases of action is significantly different from Plato's, he does share Plato's interest in the motivations political leaders may have relative to their own reputation. He is careful, however, to distinguish between a positive reputation in the ordinary sense, which he usually calls 'glory' (*gloria*), and the well-grounded approbation of qualified observers, which he terms 'true glory' (*vera gloria*) or 'honor' (*honos*). A desire that was merely for the ill-considered praise of the many could be deeply problematic in political leaders, who ought ultimately to be motivated by a sense of responsibility to their communities and a rational consideration of what is best. But it does not follow that public servants have no interest at all in how they are regarded,

[22] This would seem to include the form of compulsion Plato specifies; namely, a wish to avoid the worse regime of someone else.

[23] *Rep.* 1.1: *necessitate … a natura* [*datam*]; *Rep.* 1.3: *ipsius naturae stimulis incitamur*. Blößner (2001: 233–6), points out the contrast between this passage and other Ciceronian passages (*Arch.* 28; *Tusc.* 1.32; *Sen.* 82) that speak of the desire for glory or for immortality as the obvious motivation for public service.

as Socrates's statement seems to imply. They should indeed be 'nurtured upon glory' in early life,[24] and even in their maturity they retain a form of motivation toward honor in the truest sense of the word.

7.2 The Enormous and Destructive Beast

While Plato's *Republic* is certainly an important point of reference for Cicero, the analysis of human psychology that undergirds Cicero's position on the honor motive is quite different from Plato's analysis. In books 4, 8, and 9 of the *Republic*, Plato assigns to Socrates an account of human motivation that lays considerable emphasis on the desire for approbation. The middle part of the tripartite psyche, that is at first called 'anger' or 'spirit', eventually emerges as having a particular concern for status (τιμή): It is characterized by 'loves of victory and honor' and is 'wholly moved toward dominance and victory and good repute'.[25] As the rational part is defined by its orientation toward what is right and the appetitive part by its orientation toward the body, so this part is defined by its orientation toward status in the eyes of others. When it is allowed to take charge of the psyche as a whole, its desire for honor is highly problematic: one is then a 'timocratic' character, competitive, haughty and uninterested in real learning.[26] But the spirited part is not inherently debased. On the contrary, it is an intrinsic and universal feature of the mind, one that has its proper function to perform.

Also very important to Plato's account is the pivotal role that the middle part has to play in maintaining the rule of reason. Since the actions of the person as a whole are determined by a kind of power struggle among the psyche's three sources of motivation, it is crucial that the spirited part tends to ally itself with reason rather than appetite.[27] Thus an immoderate desire for food or sex is kept in check not only by a judgment as to what is best for oneself but also by a wish to maintain status in the eyes of others. Similarly, in Plato's *Phaedrus,* where the psyche is imagined as a chariot with a human driver pulled by two horses, the noble horse, who is 'a lover of honor', cooperates with the driver against the base desires of the more

[24] *Rep.* 5.9 (*fr. inc.* 13 Powell); quoted below, note 77.

[25] Plato, *Rep.* 4.436a–442d, 8.548c (φιλονικίαι καὶ φιλοτιμίαι), 9.581a (πρὸς τὸ κρατεῖν … καὶ νικᾶν καὶ εὐδοκιμεῖν ἀεὶ ὅλον ὡρμῆσθαι). A helpful discussion is Brennan (2012), and see Cairns (1993: 370–92). Cicero was familiar with Plato's tripartite soul, which he mentions in *Acad.* 2.124 and *Tusc.* 1.20; see A. A. Long (1995b: 45).

[26] Plato, *Rep.* 8.548c, 8.550b, 9.581d.

[27] Plato, *Rep.* 4.440b–e.

bestial horse.[28] In this way, the honor motive helps to regulate other desires that might impel us toward something shameful.

These distinctive features of Plato's account should be compared with portions of *De re publica* in which Cicero offers examples of mental conflict. In these, we find no trace of a beneficial function either for anger or for the desire for status. Instead, Cicero consistently treats all forms of desire as being on a par with one another. There are for him only two aspects of mind to be considered: the ruling element, which he calls 'reason' or 'the best part', and a disorderly crowd of desires, emotions, appetites, and drives, all of which are equally opposed to reason.

His assumptions about the mind's motivational structure come through clearly in a passage from book 1. Laelius has requested some evidence to support Scipio's contention that the best of the three unmixed constitutions is that governed by a single intelligent leader. To answer him, Scipio tells him to consult his own inner experience. When Laelius gets angry, Scipio says, he doesn't allow anger to rule in his mind. Instead, he wants anger to be calmed by reason (*Rep.* 1.60):

> Hence Archytas [of Tarentum] rightly believed that anger, which obviously dissents from reason, is a kind of insurrection in the mind, and he wanted it to be calmed by reason. Consider also greed, and the desire for dominance, and the desire for glory, and various cravings (*libidines*), and realize that if there is any royal power in the human mind, it will be the rule of one element, namely that of reason, for that is the best part of the mind. But when intelligence rules, there is no place for cravings, none for anger, none for rashness.[29]

The passage certainly speaks of a division between reason and the various emotions. However, it does not assume a division of the mind into three parts; and in particular, it does not assign any special role either to anger or to the honor motive as a more edifying sort of desire that might help to control the others.[30] The desire for glory is just one unruly passion among

[28] Plato, *Phdr.* 253d–254d.

[29] *ergo Archytas iracundiam, videlicet dissidentem a ratione, seditionem quandam animi esse iure ducebat, atque eam consilio sedari volebat. adde avaritiam, adde imperi, adde gloriae cupiditatem; adde libidines; et illud vide, si in animis hominum regale imperium sit, unius fore dominatum, consili scilicet – ea est enim animi pars optima; consilio autem dominante, nullum esse libidinibus, nullum irae, nullum temeritati locum.*

[30] Ferrary (1995: 60–3), speaks of psychic tripartition in *Rep.* 1.59–60, 2.67–9, and 3.36–7 (3.21–2 Powell), but scrutiny of the text does not support this. It is true that the division of psyche in *Rep.* 2.67 is followed in 2.69 by a paragraph on justice as harmony among the three classes of citizens; however, these are not correlated to the preceding psychology. In no passage do we find either three soul-parts or three social classes relating to one another in the way that Plato specifies.

many, treated in exactly the same way as avarice, anger, and other forms of desire. It is only reason itself that seeks to promote the proper functioning of the person as a whole; the emotions, collectively, have 'no place' in the well-ordered psyche. The same model is evident in two contiguous fragments of Laelius's own speech in book 3. Arguing in favor of benevolent rule by the most intelligent leaders, Laelius draws an analogy to the workings of reason within the psyche of the individual. The best leaders have a natural right to rule, Laelius says, in the same way as 'god rules humankind, the mind rules the body, and reason rules desire, anger, and the other flawed parts of the mind' (*Rep.* 3.36 [3.21 Powell]).[31] But while the mind gives orders to the body in the way that a king gives orders to his citizens or a parent to his children, the rule of the reasoning faculty over the passions is more severe. It does not merely direct them, but 'constrains and subdues' them (*coercet et frangit*) in the way that a master rules his slaves. This is an absolute kind of domination, in which 'the best part of the mind, which is wisdom, subjugates the flawed and weak parts of the same mind, such as cravings, anger, and other emotions' (*Rep.* 3.37 [3.22 Powell]).[32] There is no question of one emotion or group of emotions aiding the reasoning part against the bodily drives. Anger, desire, and the other passions are all on a par with one another, with none of them serving any useful function.

A similar understanding of mental conflict appears in book 2, in a passage meant to illustrate Scipio's contention that the state is best governed by a single philosophically minded leader. Scipio develops the thought by means of a double comparison (*Rep.* 2.67):

> But that is also a man of foresight who (as we have often seen in Africa) sits upon an enormous and destructive beast and controls and governs it, and guides that animal in whatever direction he wants with a slight admonition or touch … So that Indian or Carthaginian controls one beast, and that a docile one and adapted to human manners, but the faculty that hides in human minds and is the part of the mind called intellect bridles and subdues a creature that is nor one alone, nor easy to subjugate – if it ever achieves that, which it very rarely can. For it has to restrain not only that fierce….[33]

[31] *deus homini, animus imperat corpori, ratio libidini iracundiaeque et ceteris vitiosis animi partibus.*

[32] *domini autem servos ita fatigant ut optima pars animi, id est sapientia, eiusdem animi vitiosas imbecillasque partes, ut libidines, ut iracundias, ut perturbationes ceteras*. The analogy is studied in Schofield (2017b); and see J. W. Atkins (2013: 64–70).

[33] *sed tamen est ille prudens, qui, ut saepe in Africa vidimus, immani et vastae insidens beluae coercet et regit {beluam} <et> quocumque vult, levi admonitu aut tactu inflectit illam feram … ergo ille Indus aut Poenus unam coercet beluam, et eam docilem et humanis moribus adsuetam; at vero ea, quae latet in animis hominum quaeque pars animi mens vocatur, non unam aut facilem ad subigendum frenat et domat, si quando id efficit, quod perraro potest. namque et illa tenenda est ferox …*

He refers first to the ability of an Indian or Carthaginian mahout to manage an elephant, that 'enormous and destructive beast' which is still only a single animal and a relatively tame one. He then raises the bar by switching to the comparison between the civic leader and the human intellect, which controls and subdues not just one animal but multiple powerful forces within the person (*Rep.* 2.67). The text breaks off before saying what those forces are, but clearly they are neither 'docile' nor 'adapted to human manners'. The standard interpretation is that they are the destructive passions, as listed in a series of fragments from this book: anxieties, that are 'oppressed with wretchedness or downcast by timidity and cowardice'; anger, 'which feeds on blood, which so delights in every form of cruelty that it is hardly satisfied by the untimely deaths of its victims'; desire, that makes one 'acquisitive and lustful and wallowing in pleasures'; and 'fourth, distress, that is inclined to grief and sorrowful, always worrying itself' (*Rep.* 2.68).[34] If given over to these, the mind would be 'dragged from the chariot like an untrained driver and trampled, lacerated, crushed' (*Rep.* 2.68).[35] Again, Cicero is not thinking of one relatively cooperative soul-part that is responsible for the emotions and one entirely refractory part comprising the bodily appetites. In contrast to the chariot-driver νοῦς of Plato's *Phaedrus,* which could rely on its honor-loving noble horse as an ally against its lustful horse, this Ciceronian *animus* contends alone against a large number of essentially similar passions.

Thus, while Cicero does speak of conflict among various parts of the mind, he does not go on to infer a tripartition of soul in the Platonic manner. The model to which he adheres is in fact much closer to a Stoic understanding of the ordinary emotions, or πάθη, as uniformly maladaptive, opposed to reason and liable at any point to sweep us away into destructive behavior. In Stoicism, the emotions as commonly experienced are wrong in their very essence, because they come about through judgments about one's situation that are demonstrably false: We experience anger, for instance, when we judge that revenge for some perceived slight would be a desirable good. Moreover, they are identified as 'overriding impulses'; that is, as responses of such a powerful kind that they cannot easily be stopped, just as a person running downhill cannot immediately

[34] *angores … miseria adflictas aut abiectas timiditate et ignavia / quae sanguine alitur, quae in omni crudelitate sic exultat, ut vix hominum acerbis funeribus satietur / cupido autem et expetenti et lubidinoso et volutabundo in voluptatibus / quartaque anxitudo prona ad luctum et maerens semperque ipsa se sollicitans.* Powell presents the passage as 2 *frag.* 2, 4, 6, 1 (p. 89). On the conventional placement following *Rep.* 2.67 see Büchner (1984: 256–7).

[35] *ut auriga indoctus e curru trahitur, opteritur, laniatur, eliditur* (2 *frag.* 3 Powell, p. 89).

countermand the impulse to run.[36] One important account of Stoic ethics comments that when people are in the grip of emotion, they may feel as if they are being carried away by the vehemence of their impulse 'like some disobedient horse'.[37]

The Stoic model differs from Plato's in that the capacity for affective response is situated in the reasoning faculty itself. The psyche does not contain multiple centers of motivation, any of which can take over the decision-making process in order to pursue its favored objects; instead, there is a single directive faculty that determines a course of action by its processing of impressions. In saying that the emotions are 'contrary to reason', then, the Stoics do not mean that a human being's actions can be determined by something other than their own reasoning faculty, but rather that the reasoning faculty itself sometimes functions poorly, making a judgment contrary to what correct reasoning would suggest.[38] For the mind to be divided itself would mean, in Stoic terms, that it harbors conflicting judgments, not having reflected sufficiently to determine which of its judgments is correct.

Hence arises the state called by Stoics 'loss of control' (ἀκολασία), in which a failure to rectify one's assumptions about the value of externals makes one susceptible to emotional impulses.[39] Writing in book 4 of the *Tusculan Disputations* about this aspect of Stoic doctrine, Cicero describes this type of mental conflict in a way that resembles his earlier remarks in *De re publica* (*Tusc.* 4.22):

> But the source of all the emotions, they say, is 'loss of control,' which is a rebellion in the mind as a whole against right reason. This rebellion has turned away from what reason dictates to such an extent that there is no way the mind's impulses can be directed or restrained. Self-control soothes the impulses and makes them obey right reason, considering and maintaining the judgments of the mind, but loss of control is just the opposite: reason's enemy, it lays flame to every state of the mind, throwing it into disturbance and riot.[40]

[36] So Chrysippus in Galen, *PHP* 4.2.8–18; see Graver (2007: 66–70).

[37] Stobaeus, *Ecl.* 2.7.10a (89–90W); compare Sen. *De ira* 1.7.3.

[38] For this understanding of parts see Galen, *PHP* 5.2.49 (*SVF* 3.471a), quoting from Chrysippus.

[39] Compare especially Plut. *Virt. Mor.* 441D: καὶ γὰρ τὸ πάθος εἶναι λόγον πονηρὸν καὶ ἀκόλαστον ἐκ φαύλης καὶ διημαρτημένης κρίσεως σφοδρότητα καὶ ῥώμην προσλαβούσης; also Stob. *Ecl.* 2.7.5a (57W); Diog. Laert. 7.111.

[40] *omnium autem perturbationum fontem esse dicunt intemperantiam, quae est [a] tota mente a recta ratione defectio, sic aversa a praescriptione rationis, ut nullo modo adpetitiones animi nec regi nec contineri queant. quem ad modum igitur temperantia sedat adpetitiones et efficit, ut eae rectae rationi pareant, conservatque considerata iudicia mentis, sic huic inimica intemperantia omnem animi statum inflammat conturbat incitat.*

The figurative language is evocative of political conflict. Only when a person's behavior is thoroughly rational – that is, when it accords with right reason – can there be any sort of peace within the mind. The emotions cannot be allied with reason in maintaining that peace, for they are inherently inimical to it. Once they are allowed in, they will behave like a besieging army that has broken through the gates of a city and lays waste to everything in its path.[41]

The *Tusculan Disputations* account of the workings of the human mind according to Stoicism could serve equally well to describe the psychology implied in *De re publica*. Where Plato had posited a kind of negotiation among three motivation centers within the mind, Cicero operates with a straightforward opposition between reason and the destructive passions. The form of mental conflict he assumes pits correct reasoning, which ought to determine our actions, against the poor reasoning that gives rise to emotion; or 'the best part of the mind, which is wisdom' against 'the flawed and weak parts of the same mind' (*Rep.* 3.37 [3.22 Powell]).[42] Significantly, this model does not assign any special status to anger, the desire for glory, or any other desires relating to status. Such desires are treated in just the same way as the bodily desires; that is, as harmful forces that rebel against reason.

7.3 The Value of the Object

The harsh treatment accorded to the desire for glory in *De re publica* 1.60 is best understood on the assumption that Cicero is thinking in a particular way about the value of glory as an object of pursuit. Glory that consists only in the approval of a large number of people is for philosophers an object of little or no value, for the obvious reason that praise coming from observers who lack knowledge of one's real merits can be misleading. Cicero may well believe that a desire for glory in that sense is a product of confused values and fully as dangerous as greed or anger.

We know, however, that Cicero also has another way of thinking about glory as an object of pursuit. In the speech *Pro Sestio*, delivered in 56, just two years before he began work on *De re publica*, he touches repeatedly on the theme of real glory, which he eventually defines as 'the good report of the good' (*bona fama bonorum*, *Sest.* 139).[43] By this he does not mean the

[41] The same metaphor is found in Sen. *De ira* 1.8.2.
[42] Quoted above, note 32.
[43] For the ideology see also *Arch.* 28–9; *Rab. Perd.* 29.

approval of that faction in Roman politics referred to as the 'good men' (*boni*).[44] Rather, he appeals to the authoritative judgment of those who are themselves meritorious. Because only those observers can be relied upon to give a fair assessment of one's merits, their approval is 'the only thing that can rightly be called glory' (*Sest.* 139).[45] It is accordingly an appropriate object of pursuit for statesmen whose primary aim is the benefit of the community.

It is in keeping with this notion of real glory that he speaks in the preface to *De re publica* book 3 of the praise that is owed to civic leaders. While both the life of study and the life of public service are deserving of praise, the latter is more so if one has to choose between them. The very best leaders, however, are those who are learned in political and moral philosophy while also being fully committed to the practical business of governing. Such a person, Cicero says, 'has achieved everything that pertains to praise' (*Rep.* 3.6 [3.5 Powell]).[46] Moreover, this merited praise may be recognized as an objective by the leaders themselves. Scipio, Laelius, and Philus, the main speakers of *De re publica*, added philosophy to their repertoire 'so that they would not omit anything that pertains to the highest praise of noble men' (*Rep.* 3.5).[47] In seeking to attain all forms of excellence that were deemed praiseworthy, they were primarily interested in excellence for its own sake, and yet the praise that belongs to such excellence also figures in their considerations.

The idea is expressed with greater specificity in a statement made by Laelius later in book 3. Speaking as if to contradict Socrates's remark about philosophers not being lovers of honor, Laelius says (*Rep.* 3.40 [3.28–9, 3.31 Powell]):

> Virtue clearly does want honor, nor is there any other reward for virtue. Yet it accepts that reward graciously; it does not demand it stridently … What riches, what commands, what kingdoms would you offer such a man? To him, all such things are merely human, while his own goods are divine …. But if virtue is deprived of its rewards by the ingratitude of

[44] The context makes clear that the term does not refer to the group that were called *boni* in common political parlance; i.e. the wing that ordinarily voted to support the senatorial class.

[45] *bona fama bonorum, quae sola vere gloria nominari potest*. Compare *Sest.* 93, and contrast the attitude of Vatinius, *flagrans cupiditate gloriae*, in *Sest.* 134. Similarly in *Tusc.* 1.110, Cicero remarks on the posthumous reputation of major figures in Roman history, saying that it should be measured 'not by popular acclaim but by the true praise of good people' (*non fama populari, sed vera bonorum laude metiens*).

[46] *ad laudem hunc omnia consecutum*. For the arrangement and interpretation of these difficult segments see Zetzel (2017b).

[47] *ne quid praetermitterent quod ad summam laudem clarorum virorum pertinerent.*

> all, or by the enmity of many, or by the power of enemies, still, I tell you, it has many consolations to satisfy it; above all, it sustains itself with its own distinction.[48]

The 'honor' (*honos*) of which Laelius speaks is something of real value, since it is 'the reward of virtue'. As such, it is one of the virtuous man's own goods, while such objects as riches, commands, and kingdoms are not. The point of the passage is to delineate the attitude of the virtuous agent toward this good. It is something he wants to have, but does not insist upon having: If adverse circumstances prevent him from getting this reward, he is fully content with the satisfactions that inhere in right action itself. Laelius says further that virtue has 'its own distinction' – that is, its *decus*, a word that could equally be translated 'seemliness' or 'fair appearance', with implicit reference to the perspective of some external observer.[49] With this remark, he shifts the emphasis away from the appreciation of others and toward a quality of virtuous action itself, its honorableness or fineness. This quality is always present in virtuous action, whether or not honor is actually bestowed. It follows that while merited praise does have value, it does not have independent value. In the eyes of the virtuous leader, esteem coming from other people is a good thing only on the understanding that it is an accompaniment to right actions. It can never be sought on its own, and its absence would not in the least diminish the good that inheres in the actions themselves.

Much of this could have been derived directly from book 7 of Plato's *Republic.* As Cicero may well have remembered, Socrates concludes at the end of that book that the ideal state can come into being only when philosophers are willing to rule. This time he does not refer to any sort of external compulsion but rather to the objects that real philosophers will value. The just city will become a reality, he says, only

> when one or more true philosophers, having become rulers in the city, despise the honors that are given at present, considering them servile and

[48] From the quotation in Lact. *Inst.* 5.18.4 (accepting Müller's emendation *plane* for *paene* transmitted in Lactantius): *vult plane virtus honorem, nec est virtutis ulla alia merces; quam tamen illa accipit facile, exigit non acerbe … huic tu viro quas divitias obicies, quae imperia, quae regna, qui ista putat humana, sua bona divina iudicat? … sed si aut ingrati universi, aut invidi multi, aut inimici potentes suis virtutem praemiis spoliant, ne illa se multis solaciis oblectat, maximeque suo decore se ipsa sustentat.* The confusion between *plane* and *paene* is frequent in Latin texts; see *TLL* 10.1.41.10. If *vult paene* is allowed to stand, it must be rendered 'almost wants', with the thought that the attitude of virtue is somehow ambivalent.

[49] Griffin (2017: 50) refers to the etymological connection between *dignitas* ('an outward-looking quality, in that it depends on the view taken of one by others') and *decus* ('comely and fitting appearance'). Similarly Büchner (1984: 319), referring to *honos* in *Rep.* 3.40 (3.28 Powell): 'sozusagen die Außenseite der *virtus*'.

> valueless, but have a high regard for right conduct and the honors that come from it, and consider justice the greatest and most necessary thing of all, and administer their city as servants and increasers of justice.[50]

This is close to what we find in Laelius's speech. The honors currently given to public service are despised by those who are best qualified to rule, and yet those leaders do value the honors that accompany right action. They have a high regard for right conduct *and the honors that come from it.* While justice itself is their primary object of concern, they also care about others' esteem when that esteem arises from a proper assessment of their worth.

In some ways, though, the passage from Laelius's speech is reminiscent rather of Stoic thought. Unlike Plato, the Stoics used different terms to mark the distinction between good reputation in the ordinary sense and the approval that attaches to virtuous action.[51] The former they called δόξα ('opinion'), and classified it as merely a preferred indifferent, alongside wealth, long life, and other objects of pursuit that are not constitutive of happiness.[52] The other, that is, merited praise, they termed τιμή ('honor'), and classified it as a genuine good.[53] In making this distinction, they stressed that since glory or good repute is bestowed by the non-wise, it lacks any sound epistemic basis, whereas honor is accorded by those who are themselves virtuous and wise.[54] Consequently, honor is given only to the virtuous, since only they can be correctly thought to deserve it. In a phrase used also by Aristotle, the Stoics designate τιμή the 'reward of virtue'.[55]

The conceptual distinction between merited praise and mere popularity is a point Cicero emphasizes both in *De legibus* and in the *Tusculan*

[50] Plato, *Rep.* 7.540d–e: ὅταν οἱ ὡς ἀληθῶς φιλόσοφοι δυνάσται, ἢ πλείους ἢ εἷς, ἐν πόλει γενόμενοι τῶν μὲν νῦν τιμῶν καταφρονήσωσιν, ἡγησάμενοι ἀνελευθέρους εἶναι καὶ οὐδενὸς ἀξίας, τὸ δὲ ὀρθὸν περὶ πλείστου ποιησάμενοι καὶ τὰς ἀπὸ τούτου τιμάς, μέγιστον δὲ καὶ ἀναγκαιότατον τὸ δίκαιον, καὶ τούτῳ δὴ ὑπηρετοῦντές τε καὶ αὔξοντες αὐτὸ διασκευωρήσωνται τὴν ἑαυτῶν πόλιν;

[51] The adherence to certain terms is not, however, the determining factor: the distinction that matters is conceptual rather than terminological. See note 54.

[52] See e.g. Stobaeus, *Ecl.* 2.7.5a, 2.7.7e; Diog. Laert. 7.104, 7.106; Cic. *Fin.* 3.51. Cleanthes wrote separate treatises Περὶ τιμῆς and Περὶ δόξης (Diog. Laert. 7.175). Cicero in *Fin.* 3.57 comments on the status of reputation as a preferred indifferent, using the term εὐδοξία.

[53] In the classification of goods in Stob. *Ecl.* 2.7.5l (73 W = *SVF* 3.112), it is listed as a relational good (προς τί), along with goodwill and friendship.

[54] For the epistemic basis of glory we have Cleanthes in *SVF* 1.559 (from Clement, *Stromateis* 5.3.17). The two concepts are directly compared in *SVF* 3.229, from Calcidius, *In Platonis Timaeum* 166 (on which see below, notes 62 and 64) and also in *SVF* 3.161, from the scholiast to Plato's *Laws* 625a. The latter speaks of κλέος (which is the term used in the Plato passage), rather than τιμή. Compare Seneca, *Ep.* 102.8–9, which speaks of *claritas* ('renown') as 'the favorable opinion of good men' (*bonorum uirorum secunda opinio*) and 'praise awarded to a good person by good people' (*laus est a bonis bono reddita*).

[55] Stob. *Ecl.* 2.7.11i (103W); Alexander of Aphrodisias, *De fato* 35 (= *SVF* 2.1003); compare Arist. *Nic. Eth.* 4.3, 1123b15–36.

Disputations. In *De legibus* 1.32, the operative terms are *gloria,* meaning good repute in the usual sense, and *honestas* ('honorableness'). There is a resemblance between these two, Cicero says, but a crucial difference in evaluation, for *gloria* does not make a person blessed, and the lack of it does not make one miserable. The claim made in book 3 of the *Tusculan Disputations* is along the same lines, but more elaborate. There, Cicero defines true glory as 'the unanimous praise of good persons, approval sounded without bias by those who know how to judge excellence of character'; while the other kind of glory, which he also calls *fama popularis*, bears only a specious resemblance to it (*Tusc.* 3.3).[56] This bastard glory, which 'pretends to imitate the first', is 'rash and ill-considered, frequently praising misdeeds and faults' (*Tusc.* 3.4).[57] Since both of these passages give other strong indications of Stoic influence, we can assume that in them Cicero knowingly reproduces the Stoic distinction between δόξα and τιμή. That same Stoic doctrine is implicit in Laelius's remark in *De re publica* 3.40 (3.28 Powell), where it is not *gloria* that virtue wants, but *honos.*

It is of interest also that the verb Laelius uses for the attitude of virtue is *vult* ('wants') rather than *cupit* ('desires'). This 'wanting' denotes a specific attitude that is set in contrast with a more insistent, grasping form of pursuit: The virtuous person 'accepts … graciously' (*accipit facile*), and requests 'not stridently' (*exigit non acerbe*). The implied distinction is again suggestive of Stoic thought. Desire (ἐπιθυμία) is standardly defined in Stoic texts as 'irrational appetition' (ἄλογος ὄρεξις); that is, as an affect-laden impulse to acquire some indifferent object misconstrued as a good.[58] Like all the πάθη, it is also a vehement or 'overriding' impulse. But Stoics also posited a class of affective responses that would occur in the virtuous wise. These are not counted as emotions in the ordinary sense, but as εὐπαθείαι, 'good emotions', because they arise only from correct assessments of value. When a genuine good is in prospect, the virtuous agent experiences the eupathic response called βούλησις ('wishing').[59] Writing about this aspect

[56] *consentiens laus bonorum, incorrupta vox bene iudicantium de excellenti virtute.*

[57] *illa autem, quae se eius imitatricem esse volt, temeraria atque inconsiderata et plerumque peccatorum vitiorumque laudatrix.*

[58] E.g. in Diog. Laert. 7.113; Galen, *PHP* 4.4 (*SVF* 3.464); cf. Stob. *Ecl.* 2.7.10b (90W = *SVF* 3.394). Cicero in *Tusc.* 3.24 speaks of *immoderata appetitio opinati magni boni rationi non obtemperans* ('an ungoverned reaching, not subject to reason, toward some great good that is anticipated').

[59] Diog. Laert. 7.116; compare Sen. *Ep.* 116.1 (*cum tibi cupere interdixero, velle permittam*). It follows that an affective response directed toward τιμή should be classified as a species of βούλησις rather than of ἐπιθυμία. No Stoic definition survives for an εὐπάθεια relating to merited praise. However, we do have evidence of the inverse, since moral shame (αἰδώς) is mentioned among the εὐπαθείαι and defined as εὐλάβεια ορθοῦ ψόγου ('caution against correct censure'): Ps-Andr. 6 = *SVF* 3.432; see Graver (2007: 58–9).

of Stoic doctrine in book 4 of the *Tusculan Disputations,* Cicero offers *voluntas* as a Latin equivalent for βούλησις. He remarks also that *voluntas* 'is done prudently and in accordance with consistency', whereas desire (*cupiditas*), though likewise an appetitive impulse, 'is aroused too vigorously and in a manner opposed to reason' (*Tusc.* 4.12).[60] This is very much the same distinction as was made in Laelius's speech, and Cicero even uses the same terms, since the abstract noun *voluntas* is related to *vult* in the same way as *cupiditas* is to *cupit.*

7.4 The Perils of Popularity: Book 4 and the Corruption of Human Nature

While only a few pages remain from book 4 of *De re publica,* we have reason to believe that the wish for honor – or, in less exalted terms, the desire for glory – was part of the argument in that book as well. A significant piece of evidence on this score can be derived by inference from the surviving fragments in combination with *De legibus* 1.46–7 and *Tusculan Disputations* 3.2–4.

To see this, we need first to look more closely at Cicero's argument in those two works. In both, he lays out an answer to a familiar problem in ethics. If we assume, as many ancient philosophers did, that the various capabilities of the human being are just the ones that we need in order to develop toward wisdom and virtue, then why is it that people so often turn out to be full of mistaken beliefs and moral failings? Further, why do we so often make the very same mistakes as other people have made? If indeed money, pleasure, and fame are not important goods, why do so many people believe that they are? *De legibus* 1.31–2 seeks to resolve this issue with a particular focus on the natural origins of justice. Although we are all endowed with some inchoate notions of justice, Cicero says, we are also alike in that we are led astray by the similarity of our natural objects of pursuit to other, illegitimate objects. Glory is one of those illegitimate objects: Because there is a similarity between *honestas* (honorableness itself) and *gloria,* we falsely suppose that those who receive public honors are also happy and those who lack them are unhappy (*Leg.* 1.32).[61] In addition,

[60] *constanter prudenterque fit … ratione adversante incitata est vehementius.* Writing to Cato in 50, he makes the same terminological distinction: *causam meae voluntatis – non enim dicam cupiditatis* (*Fam.* 15.6.2 = 112 SB).

[61] *propterque honestatis et gloriae similitudinem beati qui honorati sunt videntur, miseri autem qui sunt inglorii*. Here *honorati* does not have the restricted sense; it is on a level with *inglorii,* both referring to public offices or accolades, conventionally called *honores*.

Cicero remarks in *De legibus* 1.46–7, we are misled by various cultural influences. Nature does supply some objective criteria for what behavior is honorable or shameful; if our moral judgments are widely discrepant in a way that judgments based on sense-perception are not, it is because our minds have been corrupted by those whom we meet in the course of our development: the parent, the wet-nurse, the teacher, the poet, the theater, and 'the common consent of the crowd' (*multitudinis consensus*, *Leg.* 1.47). Thus we are all affected by not one but two causes of error relating to the esteem of others: One is an inherently confusing similarity, and the other is the messages fed to us by our culture.

In the passage from *Tusculan Disputations* book 3, Cicero identifies the same two causes of moral corruption and the same list of cultural influences. Here the misleading messages from the culture are named first, when he says that although nature has endowed us with sparks and seeds of understanding and the virtues, we quickly absorb erroneous beliefs coming first from our wet-nurse, our parents, and our teachers; then from the poets and above all the people and 'the multitude who approve our faults on every side' (*omnis undique ad vitia consentiens multitudo*, *Tusc.* 3.3). Coming last in the list, the common people are the most damaging of all these influences, specifically because it is they who shower the naturally talented leader with praise and other benefits of popularity, whether or not those benefits are deserved. Consequently, those who are most fit to lead gain exactly the wrong impression of what they ought to care about. But even if these sources of corruption were not present, potential political leaders could still be led astray by the specious resemblance between the natural objects of pursuit and their concomitants. Preeminent among these latter causes of error is the resemblance between 'true honorableness' (*veram honestatem*) and the 'shadow-shape of glory' (*adumbratam imaginem gloriae*, *Tusc.* 3.3). For while real glory reliably tracks virtuous conduct and need not be rejected by good people, popular acclaim gives a distorted caricature of real glory, with disastrous results for the individual and for the state.

I have argued elsewhere that this rather complicated Ciceronian account of the origin of human error gives indications of familiarity with an existing Stoic explanation that proceeded in much the same way.[62] The same twofold explanation was given in the *Peri Pathōn* of Chrysippus, with which

[62] See Graver (2012; 2016: 136–7). The argument depends on a close reading of Posidonius, fragment 169EK, lines 35–77 (Galen, *PHP* 5.5.14–21 = *SVF* 3.229a), together with Diog. Laert. 7.89; Calcidius, *In Platonis Timaeum* 165–6 (= *SVF* 3.229); and Sen. *Ep.* 94.53–5, 115.11–12.

Cicero was familiar, and the topic was discussed in other Stoic works as well.[63] Cicero's comments on the insidious effect of praise and popularity also have antecedents in the Stoic account, though he may have expanded the theme.[64] The point of interest for us here is that a significant element of that same Stoic explanation also appeared in book 4 of *De re publica.*

One thing we happen to know about book 4 is that it contained a discussion of the physical and mental capacities of the human being. Cicero indicates in *De legibus* 1.27 that his earlier work included such a discussion, and a remark in Lactantius reveals that the material belongs to book 4 – perhaps to Scipio's introductory statement, as most editors have assumed.[65] To augment this scrap of information, I suggest that the discussion of human excellences must have been followed by some treatment of the process of corruption, with the approval of the common crowd playing an important role in that process. The inference is based on a close correlation between *De re publica* 4.9 (4.23 Powell), quoted by Augustine in *De civitate dei* 2.14, and a portion of the *Tusculan Disputations* passage just mentioned. To facilitate comparison, I present the two passages side by side.

Rep. 4.9 (4.23 Powell)
ad quos cum accessit clamor et approbatio populi quasi cuiusdam magni et sapientis magistri, quas illi obducunt tenebras, quos invehunt metus, quas inflammant cupiditates!

When to these is added the clamor and approbation of the people, as it were of some great and wise teacher, what darkness they cast upon him, what fears they instill, what desires they inflame!

Tusc. 3.3
cum vero eodem quasi maxumus quidam magister populus accessit atque omnis undique ad vitia consentiens multitudo, tum plane inficimur opinionum pravitate a naturaque desciscimus.

But when to that is added the people, our greatest teacher as it were, and all the multitude who approve our faults on every side, then do we become thoroughly steeped in corrupt beliefs and secede from nature.

[63] I argue for direct familiarity with the *Peri Pathōn* of Chrysippus in Graver (2002a: 203–14); some earlier scholars had come to the same conclusion. See also Tieleman (2003: 198–207).

[64] The idea of glory (δόξα) as a source of corruption is found already in Cleanthes's account in his *Hymn to Zeus* (*SVF* 2.537, lines 22–31). The fuller version in Calcidius mentioned above (note 62) is especially close to Cicero in this regard, but cannot have been derived from him, since Calcidius also preserves the phrase 'twofold corruption' (*duplicem perversionem;* cf. Posidonius 169EK [Galen, *PHP* 5.5.14–21 = *SVF* 3.229a, lines 51–2]).

[65] Lact. *Opif. Dei* 1.11–14, included in Ziegler's edition at the beginning of book 3; see Zetzel (2001: 92). Powell (2006: xxi–xxii and 125), suggests placing all the material on human nature at the end of book 4, '*quasi perorationis loco*', but admits (in Powell, 2012: 34) that the placement is speculative.

The resemblance is particularly close in the first half of each sentence. The double subject (with singular verb) *clamor et approbatio populi* matches to *magister populus accessit atque … multitudo*; the verb phrase *ad quos cum accessit* to *eodem … accessit*; and the phrase *quasi cuiusdam magni et sapientis magistri* to *quasi maxumus quidam magister*. The people, or their clamor and approbation, are added to some previously named cause as an especially important influence called, with a touch of irony, a 'teacher'. In the *Tusculan Disputations*, we know that the cause mentioned previously is the poets, who make a deep impression on us with their 'make a grand show of erudition and wisdom' (*magnam speciem doctrinae sapientiaeque*, *Tusc.* 3.3). In the *De re publica* fragment, there is also an association with the poets, for Augustine indicates that he is quoting from a passage 'in which Cicero treated of the poets' (*Cicerone cum de poetis ageret*). There may also have been some mention of the theater, since Augustine takes the sentence to be relevant to his own attack on theatrical performances. In both cases, then, Cicero is moving from the deleterious effects of the poets and/or playwrights to the still worse effects of the crowd. Both should be compared with the corruption sequence in *De legibus* 1.47, where the order is *parens, nutrix, magister, poeta, scena, multitudinis consensus*.

Now, editors of *De re publica* have generally grouped fragment 4.9 together with Cicero's proposed interdiction on the theater, assuming that the bad effects in *quas illi obducunt tenebras, quos invehunt metus, quas inflammant cupiditates* are the work specifically of the previously mentioned playwrights. The close correspondence with *Tusculan Disputations* book 3, however, suggests a broader significance for the passage, in which Cicero is exclaiming not about the bad influence coming from the stage, but about the way that the approval of the many corrupts the mind and character of those who receive it. On this reading (as indicated in my translation), the verb *accessit* does not mean 'is accorded' (the shouts and approval of the people are accorded to the playwrights), but simply 'is added': The shouts and approval of the people are a further source of corruption, in addition to that coming from the poets and/or playwrights. The context in Augustine seems to imply that *illi*, referring back to the poets, is the subject of the verbs *obducunt*, *invehunt*, and *inflammant*; but this is not necessarily the case. *Illi* might refer to the idea of plural agents contained in *clamor et approbatio populi*, or it may be dative referring to the person influenced. Augustine has made a slight appropriation of the sentence to better suit his own criticism of the theater, when in fact Cicero's point was

more like what he says in *De legibus* and the *Tusculan Disputations*, that public figures are at risk when they pay heed to the crowd's ill-informed approval of their actions.[66]

Slender though it is, the evidence of *De re publica* 4.9 provides us with some basis for envisioning a longer account of the process of moral corruption that would have included also the other elements that we find in Cicero's other works and in the standard Stoic account. The corrupting influence of poetry and drama would then be at issue only as part of a larger picture, in which the family and the elementary schooling are also at fault, and in which the most insidious influence of all is the populace itself. The speaker's main concern would be human error overall, such as necessitates the intervention of a philosophically grounded legal system and a reformed plan of education. Such a concern would be appropriate to the opening sequence of book 4, in contiguity with the section on the promising characteristics of the human being. Cicero's thought will then have developed in the same way as it does in *De legibus*: first the physical and mental characteristics with which nature has endowed the human species, and then the process by which false values become established in individuals and societies.

7.5 *Verecundia* and the Planned Society

We have seen how Cicero's account speaks of an innate orientation toward the approval of others which is not bad in itself, but may become a vehicle for moral corruption. One would expect, though, that the natural inclination toward honor would also have some positive function in the restoration of the well-ordered state. Indeed, such a function is indicated for it near the very beginning of the transmitted text of *De re publica*, where Cicero remarks in his own voice that 'modesty, self-control, avoidance of disgrace and pursuit of praise and honor' are among the civic virtues that early lawgivers instilled in their citizens through training, customs, and laws (*Rep.* 1.2).[67]

[66] Such a move is in keeping with Augustine's citational practice; see Testard (1958: 1.304–12). Interestingly, the old translation of the *City of God* by John Healey (first published 1610) understands Cicero's syntax as I do: 'The clamour and approbation of the people, when it is joined with these poetical fictions, as the testimony of some great and learned master, oh what darkness doth it involve a man in? what fears it inflicts, what lusts it inflames?'

[67] *pudor, continentia, fuga turpitudinis, appetentia laudis et honestatis.*

In this regard, the following portion of the text, found on unplaced MS folia 199–200, is especially striking (*Rep.* 5.6–7 [3.3 Powell]):

> … states in which they seek the praise and esteem of the best person and flee ignominy and disgrace. And they are not deterred by fear of any penalty constituted by the laws so much as they are by shame, which nature gave to humankind as a sort of fear of justified criticism. The governor of the state increased this through his views and perfected it with institutions and training, so that shame would be as effective a deterrent from misdeeds as fear. And the same things can be said about praise even more extensively.
>
> But as for our mode of life, a plan has been laid out, with proper marriages, legitimate children, and the sacred shrines of the family's Lares and Penates, so that all people benefit both from the community's resources and their own. Consequently it is not possible to live well except in a good state, nor is it possible for anything to be happier than a well-ordered state.[68]

The passage describes the salutary arrangements that exist in some states for regulating the behavior of the citizens. Although these states may have established legal sanctions for various transgressions, an even more effective mechanism consists in the praise and blame of the best citizen. Expanding on the effects of blame in particular, the speaker (presumably Scipio) attributes its effectiveness to the human being's natural sense of shame, termed either *verecundia* or *pudor* and defined in the Stoic manner as 'fear of justified criticism'.[69] He adds that the best citizen, in his role as governor, deliberately amplifies that natural tendency by inculcating his views – meaning no doubt the principles upon which his criticisms are based – and by establishing customs and methods of teaching that reinforce it. Not everything depends on blame, however. What has been said about criticism also applies *mutatis mutandis* to praise, and even more extensively. With that said, the speaker proceeds to make some brief mention of specific customs and institutions that preserve the social order and

[68] [*civi*]*tatibus, in quibus expetunt laudem optimi et decus, ignominiam fugiunt ac dedecus; nec vero tam metu poenaque terrentur quae est constitua legibus, quam verecundia quam natura homini dedit quasi quemdam vituperationis non iniuste timorem. hanc ille rector rerum publicarum auxit opinionibus perfecitque institutis et disciplinis, ut pudor cives non minus a delictis arceret, quam metus. atque haec quidem ad laudem pertinent, quae dici latius uberiusque potuerunt. ad vitam autem usumque vivendi ea discripta ratio est iustis nuptiis, legitimis liberis, sanctis penatium deorum Larumque familiarium sedibus, ut omnes et communibus commodis et suis uterentur, nec bene vivi sine bona re publica posset nec esse quicquam civitate bene constituta beatius.*

[69] The case for Scipio as speaker is argued in Zetzel (2017b: 480). For the terms *verecundia* and *pudor* in Roman culture see Kaster (2005: 13–65): They are distinguishable, but in this passage are used interchangeably. See also Schofield (2021: 170–5). The resemblance of *vituperationis non iniustae timorem* to the Stoic definition (see above, note 59) is noted in Zetzel (1995: 89) and Zetzel (2001: 91). However, the definition may not be exclusive to Stoicism: see Kaster (2005: 174 n. 121 and 161 n. 13), pointing out the resemblance to Gellius, *NA* 19.6.3.

hence the happiness of the community. He names in particular those having to do with marriage, procreation, and domestic life.

Although the manuscript does not provide any evidence as to the placement of this segment within *De re publica*, it is probable that it, too, belongs to the first part of book 4. A recent article by James Zetzel argues extensively for the book 4 location, pointing in particular to the remarks about marriage and domestic life in the second paragraph.[70] These are well suited to book 4's broad objective of discovering the means for building a better society. Like Büchner before him, Zetzel also emphasizes the reference to *verecundia* as a key factor in socialization.[71] This emphasis is congruent with that of a brief segment of the manuscript that is securely attested for book 4. In that segment, speaking of the ancestral custom that prohibits boys from exercising in the nude, the speaker comments, *ita sunt alte repetita quasi fundamenta quaedam verecundiae* ('So far back do they go, these things that may be called foundations of the sense of shame').[72] The words *alte repetita* suggest an investigation into historical origins: The point is not that shame is, as it were, deeply rooted, but that there is a long-standing cultural practice that fosters the development of a sense of shame within the citizenry. Three other fragments of book 4, all preserved by Nonius, also concern social institutions that depend upon the sense of shame:

> *Rep.* 4.6 (4.4 Powell): So great is the impact of the training in *verecundia*: all women abstain from wine.[73]
>
> *Rep.* 4.6 (4.5 Powell): Also, if any woman had a bad reputation, her relatives did not greet her with a kiss.[74]
>
> *Rep.* 4.6 (4.9 Powell): The censor's judgment generally causes nothing but embarrassment to the person censured. So, since his entire jurisdiction is only over a person's good name (*nomen*), his stricture is referred to as 'ignominy' (*ignominia*).[75]

In each of these fragments, the shaming or potential shaming of individual citizens exercises a constraint on some sort of behavior. Note, however, that what is at issue is not merely the innate sense of shame that all

[70] Zetzel (2017b: 477–82). The same suggestion was made earlier by Büchner (1984: 397–8). Zetzel writes in response to Powell (2006), who presents the segment as part of the preface to book 3. Powell explains his reasons for this assignment in Powell (2006: vii–viii) and at somewhat more length in Powell (2012: 29–32).

[71] Zetzel (2017b: 480–2), Büchner (1984: 397–8), and see further Zetzel (2001: 90–1).

[72] *Rep.* 4.4 (4.2a Powell).

[73] *ita magnam habet vim disciplina verecundiae; carent temeto omnes mulieres.*

[74] *atque etiam si qua erat famosa, ei cognati osculum non ferebant.*

[75] *censoris iudicium nihil fere damnato nisi ruborem offert. itaque, ut omnis ea iudicatio versatur tantum modo in nomine, animadversio illa ignominia dicta est.*

human beings have from birth. It is, rather, an internalized awareness that has been fostered by some kind of training (*disciplina*) and that is enforced through the institution of the censorship.[76] This is exactly the kind of intervention that is envisioned in MS folia 199–200: The governor begins with the natural tendency of human beings to seek praise and avoid criticism, but then amplifies that tendency by teaching and by creating suitable institutions.

This last is an important point. To the extent that the sense of shame is to be a factor in the regulation of citizens' conduct, it must itself have been guided into the proper channels by some designing intelligence. An unregulated avoidance of opprobrium would be no better than an unregulated pursuit of praise: It would turn over the control of one's behavior to the ignorant many, who have no reliable standard for what conduct deserves praise or blame. That this must be Cicero's position should be evident even from what he said in *Pro Sestio*, as well as from his remarks in *De legibus* and the later *philosophica.* It becomes even more obvious now that we have seen by inference that the corrupting influence of popular acclaim was described even in *De re publica* itself.

7.6 An Education in Ethics

It is therefore imperative that Cicero should proceed to explain how it is that the virtuous leader has come to know what kinds of conduct ought to receive praise or blame. If the morality of citizens in the improved state arises more from their expectation of praise or blame than it does from the legal code, and if those expectations have been shaped by the wise leader, or by a series of such leaders and by the institutions they have created, then the health of an entire society depends on the process by which those leaders gain their education in ethics. The problem, of course, is that with the almost complete disappearance of book 5, we cannot now read the part of *De re publica* in which this crucial question ought to have been treated. We can, however, gain some idea of the line Cicero must have taken if we extrapolate from the few surviving fragments and from the ideas that Cicero presents in the dream narrative of book 6.

Here as well, the love of glory seems to have played a role. For Augustine reports that in speaking of the education of the civic leader, Cicero says that he 'must be nurtured upon glory' and, further, that the early Romans

[76] Concerning the censorship note also *Rep.* 4.6 (4.9 Powell). Zetzel (2001: 91), goes so far as to suggest that Cicero 'explained the censorship itself as a concrete Roman institutionalization of Stoic ethics'.

'achieved many remarkable feats through the desire for glory' (*Rep.* 5.9).[77] Although the material is treated by editors as an unplaced fragment, there is no reason to doubt that it belongs to book 5, since it was there that Cicero discussed the leader's education, including studies in law and jurisprudence as well as a mastery of public speaking.[78] The real question is what function Cicero assigned to glory in the leader's development.

Given what appears to have been said in book 4 about the negative effects of popularity, we can hardly suppose that the civic leader is to be brought up on *gloria* in the sense of popular acclaim.[79] One should assume rather that the glory that is meant is true glory, the praise that comes from observers who are themselves praiseworthy. The talented individual who will one day become a *princeps civitatis* would, like everyone else, have a natural inclination to seek approval from others; this is perhaps to be activated and strengthened by the notion that generous or intelligent or courageous actions will win praise from the audience that matters most. As long as the distinction between reliable and unreliable observers is maintained, it could indeed be beneficial to him to choose the kinds of conduct he thinks are most likely to win praise. Picking up on a clue from *De finibus* 3.28, we might conjecture that not only will the anticipation of praise serve as a motivator, but it could actually provide some guidance to those whose understanding of what behavior counts as virtuous is still in the process of development.[80]

What we cannot conclude is that the pursuit of glory was anything more than a preliminary stage in the education of the civic leader. The fragment actually suggests as much, when it says 'must be nurtured' (*alendum*): Nurturing is appropriate to the very young.[81] But we would know in any case that behaving well for the sake of glory, even in its best form, could not be sufficient for virtue as Cicero understands it. True glory, or honor, is 'the reward of virtue', but virtuous actions are necessarily performed for their own sake and not for reward.[82] In a fragment of book 5 quoted by Cicero himself in a letter to Atticus, Scipio stresses that the aim of the *moderator rei publicae*

[77] (*fr. inc.* 13 Powell p. 150), from August. *Civ. Dei* 5.13: *ubi loquitur de instituendo principe civitatis, quem dicit alendum esse gloria et consequenter commemorat maiores suos multa mira atque praeclara gloriae cupiditate fecisse.* Here *maiores suos* is most plausibly interpreted as representing *maiores nostri* in direct discourse; i.e. the most distinguished of the early Romans. See Büchner (1984: 411–17).

[78] See *Rep.* 5.5 (5.4 Powell), and for oratory the Grillius fragment in *Rep.* 6.1 (Powell, p. 129), with Büchner (1984: 405–8).

[79] This is perhaps less clear for the early Romans, if indeed Cicero spoke of their *cupiditatem gloriae* as Augustine reports. The connotations of the phrase are otherwise quite negative; see notes 29, 45, and 60 above.

[80] Graver (2016: 126–34).

[81] The verb *alere* is used especially of suckling an infant: *OLD* s.v. *alo* 1.

[82] The point is powerfully made in *Leg.* 1.48.

is the happiness of the citizens, pure and simple.[83] There must therefore have been some moment of transition in which the potential statesman adopts a new perspective and a new reason for acting, grounded in a properly philosophical understanding of his responsibilities toward the human community.

For corroboration we can turn to the celebrated dream narrative of book 6.[84] There we find just such a moment of transition presented in narrative form, as if to provide a mythic dramatization of the intellectual development outlined in book 5. In that narrative, the youthful Scipio is invited to view with his (sleeping) eyes what in fact can only be seen with the eyes of reason: the regularity of the celestial movements, the all-encompassing design of the supreme god, and the smallness of the earth itself when seen from a cosmic perspective. It is ultimately this vision that can supply the correct motivation for public service, through a full realization of the place of a human being within the world order and of the responsibilities human beings have to one another. Viewed from this angle, the motivation previously provided by the longing for praise is seen as valueless.

In the course of the dream, the elder Scipio draws a contrast between Rome's seemingly vast dominion and the much greater extent of the eternal spheres of heaven, from which the rational human soul has descended and to which the 'governors and preservers' of states (*rectores et conservatores*) will eventually return. From the perspective of the cosmos, he says, the honors awarded by any human community are minuscule in extent and fleeting in duration. The crucial moment in his nephew's development will be when he ceases to care about such rewards and instead sets his sights upon virtue itself (*Rep.* 6.25 [6.29 Powell]):

> Thus if you will turn your eyes upward and gaze upon this dwelling, this eternal home, you will not devote yourself to what the common people say, nor will you let the expectation of your achievements reside in human rewards. Virtue itself with its own enticements must attract you toward true distinction. What others say about you is their affair. They will still say it, but all such talk is bounded by those regions that you see. It is never everlasting about anyone; rather it is buried with mortals' passing and extinguished by the forgetfulness of subsequent generations.[85]

[83] *Att.* 8.11.1 = *Rep.* 5.8 (5.2 Powell).

[84] Thematic connections between Scipio's dream and the remainder of *De re publica* are explored in J. W. Atkins (2013: 47–79); E. A. Schmidt (2017).

[85] *igitur alte spectare si voles atque hanc sedem et aeternam domum contueri, neque te sermonibus vulgi dedideris, nec in praemiis humanis spem posueris rerum tuarum: suis te oportet illecebris ipsa virtus trahat ad verum decus. quid de te alii loquantur, ipsi videant, sed loquentur tamen; sermo autem omnis ille et angustiis cingitur his regionum quas vides, nec umquam de ullo perennis fuit; et obruitur hominum interitu, et oblivione posteritatis exstinguitur.*

Having seen the eternal spheres of heaven, the young statesman is to alter his expectations in such a way that reputational rewards, and indeed all human rewards, cease to matter. Scipio notes that the praise will still be forthcoming ('they will still say it'): One who engages in virtuous actions will necessarily gain the esteem of human observers, for as long as reliable observers continue to exist. But that fact will now be extraneous to the younger Scipio's motivations: He will merely recognize it as a consequence of what he would do in any case.

For a concise formulation of the meaning of the dream, we can look at the way it is introduced. In the preliminary fragment quoted by Macrobius, Scipio responds to Laelius's complaint about the lack of any public statues for Scipio Nasica by saying that virtue has better rewards (*Rep.* 6.8 [6.12 Powell]):

> For the wise, the realization that their actions were exceptional is the fullest reward for virtue. Nonetheless, that godlike virtue has, not statues weighted with lead, not triumphs with laurels that wither, but rewards of a different kind, greener and more lasting: it is these that it yearns for.[86]

In its essence the assertion is very much the same as was made by Laelius in book 3. The accolades usually bestowed on civic leaders have no particular value; ultimately, the virtuous agent must choose right action simply for its own sake. But there is still a further reward for virtue, one that is much more valuable than the statues and triumphal parades awarded by human communities and yet has a certain similarity to them. In Laelius's speech this reward was called 'honor' to distinguish it from ordinary glory; here, Scipio mentions a reward more lasting than heavy statues and greener than laurel crowns. But for him, too, this is a reward that virtue 'yearns for'. He does not fully explain, however, what this reward consists in: When questioned, he merely proceeds to his narrative.

Within the dream, the elder Scipio speaks of a special 'place in heaven' (*in caelo locum*) that has been set aside by the supreme god as a dwelling for those who have served their country well (*Rep.* 6.13 [6.17 Powell]). It would be easy to assume that the reward of the virtuous consists precisely in admission to this special place and to the pleasurable existence they might have there. In that case, Cicero will be open to a charge of grave inconsistency, for he will have made civic virtue once again pursue an end beyond itself, merely switching one kind of reward for another. In the

[86] *sed quamquam sapientibus conscientia ipsa factorum egregiorum amplissimum virtutis est praemium, tamen illa divina virtus non statuas plumbo inhaerentes, nec triumphos arescentibus laureis, sed stabiliora quaedam et viridiora praemiorum genera desiderat.*

forceful language of *De legibus* 1.48, it will be 'out for hire' (*mercennaria*) and no longer virtue as Cicero understands it.

I think, though, that we should resist so literal a reading of the dream, just as we should resist a literal reading of the myths that end many of Plato's dialogues. Instead, we should refer back to what Scipio says openly in the related passage in book 1, that studying philosophy in all its forms confers a new understanding of what glory is (*Rep.* 1.26–8); and to what Cicero himself says in the preface to book 3, that the activity of public service is more praiseworthy than any other single accomplishment (3.4–6 [3.5–6 Powell]). The dream's language of a place in heaven can be understood simply as an allegorical way of saying that fineness or honorableness inheres within such actions. Thus the transition from being 'nurtured upon glory' to consulting the interests of the community can also be described as an evolution in the learner's understanding of what it is for one's actions to be honorable: not the contingent fact that someone is likely to praise them, but a feature of the actions themselves and thus of the divinely governed cosmos. This is the feature that both Laelius and the elder Scipio call the *decus* of virtue, its 'distinction'. In grasping this concept – ordinarily not by dreaming but through philosophical study – the mature statesman begins at last to be motivated in the way that Cicero intends.

7.7 'A Wish, but not a Desire'

One way to read *De re publica,* then, is as a response to that initial claim of Plato's Socrates, that good leaders are not lovers of honor and will not be motivated by reputational rewards. Cicero sees very well how motivations that relate strictly to the approval of the general public may be problematic in ethics, but he denies that the honor motive is necessarily just that. Drawing on Stoic thought and no doubt also on his own introspection, he teases apart three versions of the honor motive that differ in structure and for that reason carry very different implications in ethics. One is a straightforward desire for glory regardless of the source (*gloriae cupiditas*). This Cicero regards as a destructive passion. Distinct from this is the motive that even the virtuous have to gain approval based on a correct assessment of merit; that is, approval for acting well. Cicero marks this attitude with a difference of terminology, by withholding the term 'desires' (*cupit*) and instead saying that virtue 'wants' (*vult*) or 'yearns for' (*desiderat*) merited praise. Different again is the attitude that seeks simply to act well, having no other end in view, while still being aware that right action will always gain approval from right-thinking observers. The subtle but

very real difference between the second attitude and the third is the point made in the dream and in the final stage in the statesman's education.

If my reading is correct, the position of *De re publica* on glory and honor is consonant with the view articulated in the later ethical writings. Cicero continued to elaborate his account, and there are some added elements and fuller (not to mention less fragmentary) explanations in writings of the 40s. But the main outlines were already present in *De re publica.* That is a point of some significance, both for the development of Cicero's thought and for its influence.[87]

[87] Drafts of this paper were read in February 2018 at the University of Durham, Cambridge University, and the University of Edinburgh. I am grateful for feedback received on those occasions, and also to an anonymous reader for Cambridge University Press for particularly helpful and challenging written notes.

CHAPTER 8

Cicero on the Justice of War

Jed W. Atkins

Cicero's philosophical writings provide the earliest extant articulation in the history of Western political thought of the values underlying what has come to be known as just war theory. Cicero was not the first to speak of the relationship between military force and ethics. For instance, Plato's *Republic* raises the matter of military power in the context of Socrates's just city, Kallipolis.[1] And the Greek Stoic philosopher Panaetius almost certainly discussed the relationship between justice and warfare, given that one of Cicero's most extensive treatments of 'just war' occurs in *De officiis* book 1, where he professed to be drawing upon the work of his Stoic predecessor. Still, Plato's discussion in the *Republic* lacks the comprehensive and universalizing elements associated with later just war theory, as Socrates limited military restraint only to warfare among Greeks. As for Panaetius, his *Peri Kathēkontos* (*On Appropriate Action*) did not survive past antiquity, whereas Cicero's *De officiis* not only survived but played a crucial role in the subsequent development of the just war tradition.[2] Cicero's work was an important stimulant for the treatments of just war by early Christians such as St. Ambrose and St. Augustine and early modern political and legal thinkers, such as Hugo Grotius.[3]

Despite Cicero's importance to the later just war tradition, his works on the topic have historically not received much attention by scholars of just war theory. Representative is the standard history of just war theory, James

[1] See Syse (2010). Clay (1988: 24–9) notes that the problem of war and injustice arises at the very foundation of Kallipolis. Kallipolis comes into being only after the discussants decide that the first healthy city does not adequately fulfill human desires. This leads to a diseased city and the introduction of war (*Rep*. 2.373d–e).

[2] Some scholars have sought to disentangle the Ciceronian and Panaetian contributions to the treatment of just war in Cicero's *De officiis* (see e.g. Dyck, 1996: 135, 146–8). In the present chapter, I sideline questions of source criticism to focus on theoretical concerns. For the question of Cicero's originality in *De officiis*, see Chapter 5 by Gilbert in this volume.

[3] For a comparison between the thought of Cicero on just war and that of Ambrose and Augustine, see J. W. Atkins (2018: 176–84). For Cicero and Grotius, see Straumann (2015).

Turner Johnson's *Just War Tradition and the Restraint of War*, which nods to the tradition's 'earlier roots in pre-Christian culture' before moving on to consider Augustine, who is frequently, if controversially, invoked as the 'founding father' of the theory.[4] By contrast, Cicero's discussion of just war theory has received increased attention in recent years by classicists, historians of ancient philosophy, and historians of political thought. In reconstructing Cicero's account of just war theory, most of these scholars have focused on only one aspect of what I will argue is a larger, integrated theory. Others provide more comprehensive accounts, but nevertheless key interpretive questions remain unresolved.[5]

The goal of this chapter is to reconstruct Cicero's account of just war theory taken as a whole and to answer some long-standing interpretive problems related to his theory. I will argue that there are two distinct but interrelated parts or hemispheres of Cicero's theory that correspond roughly to the distinction in the later tradition between *ius ad bellum* – the justice of going to war – and *ius in bello* – justice within the context of conducting war. The procedures, practices, and values of Cicero's just war theory derive from traditional Roman religious practice, Roman law, and the honor code Rome shared with other city-states within the Mediterranean world, but Cicero's account is guided by theoretical reflection on the ends of war and has been adapted to meet the challenge of Academic skepticism. Cicero confronts skeptical criticism by showing how the prudent statesman can respond to necessity without abandoning his commitment to justice both at the outset and within the context of waging war.

The second half of the chapter takes up long-standing criticisms of Cicero's theory. I focus on two ways in which Cicero's account of just war theory has been held to be inconsistent. The first inconsistency is internal to Cicero's account itself: The account of 'the justice of going to war' seems to conflict with the ideology that supports the account of 'justice within war'. The second inconsistency involves the relationship between

[4] Johnson (1981). Mattox (2006), devoted to Augustine's just war theory, devotes a chapter to summarizing Cicero's views. Brunstetter and O'Driscoll (2017) note that by including a chapter on Cicero in their collection of essays on just war theory from its origins to the twenty-first century they are remedying an important omission in previous accounts of just war theory.

[5] Von Heyking (2007) focuses on glory; Barnes (2015) offers an incisive analysis of Cicero's account of the grounds of going to war based on the Roman fetial principle. Keller (2012) offers an exhaustive treatment of Cicero's discussion of 'just war' throughout his corpus and provides extensive bibliography, with special attention to German scholarship. Stewart (2017) rightly draws attention both to the importance of the *ius fetiale* and the Roman honor code and compares Cicero to the later tradition. He helpfully raises the problem of glory for Cicero's theory but, as befitting an introductory account aimed at nonspecialists, he could not pursue Cicero's solutions in detail.

Cicero's account of just war theory as a whole and his account of justice as it is elaborated in *De officiis* and in his Stoic sources. In each case, I will argue that these inconsistencies are largely apparent and for the most part dissolve once greater attention is given to the place of glory, honor, and reputation in Cicero's political thought.

One final preliminary comment: A proper reckoning with Cicero's theoretical reflections on justice and war requires that we read not only *De officiis*, but also *De re publica* and *De legibus* – Cicero's great works of political theory from the 50s BCE.[6] This poses a challenge and an opportunity. The challenge involves reading side-by-side very different works written a decade apart under different political and personal circumstances. The differences extend beyond the circumstances of the works' composition to include literary genre. *De re publica* and *De legibus* were carefully crafted Platonic dialogues, whereas *De officiis* was a treatise in the form of a letter 'from father to son' quickly composed over some weeks in October and November of 44. To highlight only one implication of this difference, Cicero's self-presentation in *De officiis* is far more authoritative than in the works of the 50s. Cicero's teachings in *De re publica* emerge through an exploratory and cooperative enquiry into the nature of politics through a fictive dialogue. In *De legibus*, another fictive dialogue, his authority is more pronounced inasmuch as he is the main character (though as befitting a work on laws, his character's legislation still requires, and does not always receive, the ratification of his dialogue partners acting as an assembly).[7] *De re publica* and *De legibus* survive in fragmentary and incomplete states, while *De officiis*, as befitting the text of what was to become Cicero's most influential philosophical work, is carefully preserved. The challenge for a systematic account of Cicero's treatment of the justice of war is to do so while being sensitive to these differences in composition, genre, preservation, and circumstance.

We should not expect – or even attempt – to remove all differences of perspective and tensions from Cicero's thought. To do so would require us to ignore his use of the dialogue form in *De re publica* and *De legibus* and to discount the possibility that his thinking may evolve on points of substance, presentation, or application. Moreover, we should acknowledge the inherent difficulties of attending to a thorny, complicated, and in the estimation of some ethicists, even paradoxical, question such as the morality of war.

[6] I am assuming that *De legibus* was at least largely drafted in the late 50s BCE. On dating, see P. L. Schmidt (1969) and also Chapter 2 by Zetzel in this volume.

[7] For reflections on genre and literary form in Cicero's *De re publica* and *De legibus*, see J. W. Atkins (2013: 14–46).

Yet a realistic assessment of these challenges is compatible with recognizing that Cicero's writing on just war represents an opportunity to see continuities within his thinking about a moral question of enduring relevance. Justice and warfare (and more broadly, the question of violence) are themes which occupied Cicero throughout his adult life. In his speeches and theoretical writings spanning multiple decades, Cicero reflected on the nature of our obligations to secure the rights and promote the welfare of our fellow citizens and human beings. His reflections include considering the occasions when these obligations must be adapted or even suspended, as in the case of tyrants.[8] Similarly, the *De officiis* represents the culmination of decades of reflection on honor and glory.[9]

Given the degree with which Cicero grappled with the topics treated in this chapter, I believe scholars generally have been too quick to dismiss philosophical difficulties or discontinuities within *De officiis* as mere accidents of writing the work in a hurry. It is true that the work was written rapidly under difficult circumstances;[10] still, the speedy composition was made possible by a life-time of philosophical and political thought and experience. This means that for the current chapter, I am committed to making every effort to understand Cicero's account within the context of his own ethical and political framework and assumptions, however foreign these assumptions may seem to twenty-first century readers.

8.1 The Justice of Going to War

Contemporary just war theory draws a fundamental distinction between *ius ad bellum*, the justice of going to war, and *ius in bello*, justice within the context of conducting war.[11] The traditional Latin terminology for this distinction belongs to a later development in the tradition – Cicero himself does not use the terms *ius ad bellum* and *ius in bello* to label these two parts of his theory, though he does speak of 'just war' (*bellum iustum*). Nevertheless, Cicero's writings on the topic cover both parts, and he recognizes that in treating the justice of war one must speak of two distinct-but-related areas of conduct that approximate the modern categories. For example, one of the laws within Cicero's ideal law code of *De legibus*

[8] See Steel (2022). More generally on Cicero's philosophy in his speeches, see Gildenhard (2011).
[9] See e.g. A. A. Long (1995a) and Chapter 7 by Graver in this volume.
[10] See Dyck (1996: 8–10).
[11] For contemporary just war theory, see Walzer (1977); for the history of the tradition, Johnson (1981). My account of the principles of contemporary just war theory in this chapter comes from Johnson (1981) and Orend (2008).

declares: 'Let them wage just wars justly' (*Leg.* 3.9). This law acknowledges that there exists such a thing as a justly declared or undertaken war (indicated by the adjective 'just') and just ways of waging war (indicated by the adverb 'justly'). Let's consider in greater detail Cicero's treatment of each of the aspects of justice as it relates to war.

First, consider the justice of going to war (*ius ad bellum*). Modern just war theorists emphasize that wars must have a just cause and must be publicly declared. So too Cicero: 'No war is considered just unless it has been declared, unless it has been announced, unless reparation has been demanded' (*Rep.* 3.35 [3.25 Powell]).[12] As Cicero points out elsewhere (*Off.* 1.36), this formulation echoes the traditional Roman fetial law, an institution that Scipio in *De re publica* traces back to the third king of Rome, Tullus Hostilius, who ruled sometime in the seventh-century BCE (*Rep.* 2.31). The *fetiales* were priests whose sphere of competence covered 'international relations.' When the Roman Senate believed Rome had suffered a wrong at the hands of another city, the priests would visit the alleged perpetrator, state their grievance, and demand reparation (*repetitio*). The accused party would then have roughly a month (30 or 33 days depending on the source) to provide satisfaction for the grievance. If the injury remained unaddressed at the end of this period, then the ambassador-priests would invoke the gods as witnesses that the Roman cause was just and deliver a notification (*denuntiatio*) to the magistrates of the offending city that they are liable for Rome to wage war. If the Roman Senate voted for war, then a formal declaration of war (*indictio*) was made on behalf of the Senate and People of Rome. The Senate would send the *fetiales* to communicate the news by hurling a bloody spear into the enemy's city.[13] Some ancient sources suggest that all three parts of the process needed to be completed for a war to be just, but modern scholars disagree about whether this was actually the case.[14]

For what kinds of injuries may the aggrieved party request restitution? The answer to this question depends on noticing that the fetial code reflects developments in Roman law, especially the law of delict, in the late Republic. Cicero takes advantage of these developments and explicitly relates his account of 'just war' to the law of delict (*Off.* 1.34–5).

From at least the time of the Twelve Tables in the fifth-century BCE, Romans specified penalties for delict, 'a wrongful act, not deriving from

[12] *nullum bellum iustum habetur nisi denuntiatum, nisi indictum, nisi de repetitis rebus.*

[13] For the procedure, see Livy, *Ab urbe condita* 1.32 and Dionysius of Halicarnassus, *Roman Antiquities* 2.72.1–9. For commentary, see Olgilvie (1965: 127–33), Wiedemann (1986), Drexler (1988: 188–226), Santangelo (2008), Keller (2012: 60–77), and Barnes (2015: 58–62).

[14] Compare Ando (2010b), Santangelo (2008), and Barnes (2015: 59).

agreement, which causes damages to another, for which the latter may recover a penalty from the wrongdoer'.[15] Examples include the theft or damage of property and the various forms of *iniuria*, 'outrage', that deprived a Roman of his sense of honor through any number of means. In addition to delict, Roman law also made provisions for one to recover loss as a result of the violation of an agreement or contract.

In Roman law, the lost or damaged property that is to be recovered is *res*. To seek satisfaction for loss is *res repetere* and to grant satisfaction is *res reddere*. The '*repetitio* component' of the fetial procedure extends this principle from Roman law to dealings with other cities, beginning with Rome's allies and possibly also extending to some non-Italian peoples as Rome's empire expanded.[16] It is well known that *res* is an especially elastic word in Latin that is prone to abstraction.[17] This tendency also characterized the history of *res* as 'property' in Roman law. In the previous two centuries before Cicero's time, *res* in the sense of 'property' gradually took on a more abstract sense. While *res* continued to signify economic and physical property, it gradually began to include a moral dimension and extended to what generally is owed to someone.[18] In this sense, *res* as one's 'property' stood in for one's rights.

These developments in how Romans understood *res* extended to the way they saw the '*repetitio* component' of the fetial principle. Request for reparation (*res repetere*) may include as its object not just physical or economic property (*res*) but also damages to the rights of Rome's citizens. As Jonathan Barnes notes, *res* in the context of just war includes 'all my various rights, moral and legal'.[19] Any violation of the rights of Rome's citizens is in theory a possible ground for war.

Between *De re publica* and *De officiis*, Cicero provides four different articulations of the grounds for a just cause for war, three of which are based on the fetial code. The first three are found in *De re publica* and the fourth in *De officiis*. They are as follows:

1. He [Tullus Hostilius, the third king of Rome, who according to tradition ruled sometime in the seventh-century BCE] established the procedure (*ius*) by which wars would be declared (*indicerentur*). With the fetial rites, he consecrated this arrangement, which he had himself

[15] J. A. C. Thomas (1975: 262), quoted in Harries (2007: 44).
[16] The use of *repetitio* in the Middle and Late Republic is a matter of debate among historians.
[17] Drexler (1958).
[18] Y.-P. Thomas (1980).
[19] Barnes (2015: 69).

most justly devised, so that every war that was not announced and formally declared (*denuntiatum indictumque*) should be judged unjust and impious (*Rep.* 2.31).[20]

2. Those wars are unjust which are undertaken without a cause. For no war is able to be just except for that waged for the sake of revenge or repelling the enemy (*Rep.* 3.35 [3.25 Powell]).[21]
3. No war is considered just unless it has been declared (*denuntiatum*), unless it has been announced (*indictum*), unless reparation has been demanded (*de repetitis rebus*) (*Rep.* 3.35 [3.25 Powell]).
4. Fairness in war has been most sacredly set down in the fetial law of the Roman people. From this it can be understood that no war is just unless it is either waged after reparation has been sought (*rebus repetitis geratur*) or is announced beforehand (*denuntiatum ante*) and formally declared (*indictum*) (*Off.* 1.36).[22]

Statement 4 occurs in *De officiis*, an 'open letter' designed to instruct the young elite Roman men who comprised the future Roman ruling class.[23] The contexts of the passages from *De re publica* make interpretation more difficult. None of these passages reflect statements written by Cicero speaking in his own voice but are words spoken by characters in a fictional dialogue. Moreover, we do not know the precise contexts for Texts 2 and 3; they were spoken by a character, presumably Laelius, who, in a debate in *De re publica* book 3, defended the justice of the Roman empire against another character, Philus, who, invoking a famous set of speeches for and against justice delivered in Rome in 155 BCE by the skeptic Carneades, spoke on behalf of injustice.[24] Most of Laelius's response has been lost and what we have needs to be reconstructed by fragments in the church fathers Lactantius and Augustine. Statements 2 and 3 on just war are preserved as fragments by Isidore of Seville in the seventh century.

The surviving Ciceronian formulations of the fetial code raise questions about their relationship to one another. Two questions in particular require discussion.[25] First, there is an obvious discrepancy between

[20] *constituitque ius quo bella indicerentur, quod per se iustissime inventum sanxit fetiali religione, ut omne bellum quod denuntiatum indictumque non esset, id iniustum esse atque impium iudicaretur.*

[21] *illa iniusta bella sunt quae sunt sine causa suscepta, nam extra <quam> ulciscendi aut propulsandorum hostium causa bellum geri iustum nullum potest.*

[22] *ac belli quidem aequitas sanctissime fetiali populi Romani iure perscripta est, ex quo intellegi potest nullum bellum esse iustum nisi quod aut rebus repetitis geratur aut denuntiatum ante sit et indictum.*

[23] Griffin and E. M. Atkins (1991: xvii).

[24] For Philus's speech and Carneades, see Ferrary (1977), Glucker (2001), Powell (2013), Zetzel (2017a), and Bénatouïl (2019).

[25] Barnes (2015: 65–6).

statements 3 and 4. Statement 3 suggests that a war may not be just unless *repetitio*, *denuntiatio*, and *indictio* are all present. War can only be waged after attempts for reparation have been sought, the offending party has received notice of their failure to satisfactorily meet these requests, and the priest makes a formal declaration of war following the votes by the Roman people and Senate. Statement 4, however, uses the disjunctive conjunctions 'either … or', thereby suggesting that one may wage a just war provided the presence either of *repetitio* or *denuntiatio* and *indictio*.

Jonathan Barnes argues that statement 3 from *De re publica* better reflects Cicero's views: Given that in statement 4 in *De officiis* Cicero explicitly says that he is following the *ius fetiale*, and that statement 3 correctly reproduces that formula, we should assume Cicero means to preserve the requirements that all three traditional conditions be fulfilled despite the language of *De officiis*.[26] On the other hand, Federico Santangelo argues that the statement in *De officiis* more accurately reflects Cicero's mature view. He notes that Cicero's position here is actually more compatible with the historical evolution of the principle during the Second and Third Macedonian Wars, 'when the fetials themselves ruled that a *rerum repetitio* was unnecessary, as the enemy had openly breached any kind of trust with Rome'.[27] Moreover, John Rich has recently argued that our assumption that for the Romans the *res repetere* formed a seamless whole with the other two conditions of the fetial code comes from the disproportionate influence of Livy, who for his own purposes combined separate traditions in his narrative emphasizing different elements (the request for satisfaction [*res repetere*] and declaration of war [*bellum indicere*]).[28] Finally, Cicero's discussion of the institution of the fetial code in statement 1 omits *rerum repetitio*, a fact indicating Cicero either was aware of a tradition holding that the *res repetere* part of the procedure was detachable or at least had reason for the character Scipio in the context of the dialogue to present it as such.[29]

Much has been written recently on the development of the fetial code, and Roman historians disagree about many particular details. Given the lack of scholarly consensus on the topic, the carefully argued revisionist views by scholars such as Santangelo and Rich, and the evidence of statement 1, it seems to me likely that statement 4's disjunctive may reflect

[26] Barnes (2015: 66).
[27] Santangelo (2008: 82–3, quote on p. 82).
[28] Rich (2011).
[29] See Dyck (1996: 142). I am grateful to an anonymous reader for Cambridge University Press for drawing the relevance of statement 1 for this matter to my attention.

Cicero's creative handling of different Roman traditions rather than a mistake resulting from hasty composition, as scholars sometimes assume. Whatever we might conclude about statement 4's compatibility with the historical evidence, Cicero has good theoretical reasons to grant that it may be possible for a war to be declared without the initial request for reparation and month-long wait.[30] The reasons for this modification become evident when we consider the wider context of statement 2 within the debate in *De re publica* book 3.

We can best see what these reasons are by taking up the second question raised by the various Ciceronian articulations of the fetial code: What is the relationship between statement 2 and statement 3? Barnes construes statement 2 as supplementing the fetial principle by presenting a new condition that establishes and limits the permissible aims of war. On his reading the fetial principle specifies the process for undertaking war but doesn't address the permissible aims of war. Cicero, then, in statement 2 is specifying some particular aims of war, either to seek revenge or to expel an enemy. On Barnes's reading, 'revenge' would not be an unlimited or anger-driven vengeance but limited in scope by the reason for commencing war, the grievance announced in the *repetitio* of the fetial code.[31] Barnes argues his case primarily on philosophical rather than textual grounds. Admittedly the textual evidence is difficult given the amount of *De re publica* book 3 that is missing; however, attention to the book 3 fragments, and especially to Augustine's account of Cicero's argument in *City of God*, suggests that Barnes's rendering is highly plausible. In fact, the context of the book 3 debate in *De re publica* suggests that statement 2's specification of the permissible ends of war is designed to supplement the fetial code and thereby to meet the arguments against justice raised by the book 3 skeptical interlocutor Philus.

We know from Augustine's account in the *City of God* (22.6) that the discussion of just war in *De re publica* book 3 specified that 'war will not be undertaken by the best state except on behalf of its good faith (*pro fide*) or its safety (*pro salute*)'. *Fides* relates to justice, to alliances, and keeping promises. It was an important value that according to elite Roman ideology should guide the Roman Senate's decision-making in international affairs.[32] In *De officiis*, *fides* receives philosophical treatment as the

[30] Contrast Barnes (2015: 66), who suggests that it would make little theoretical sense for Cicero to intentionally sever the different parts of the *ius fetiale* at this point.

[31] Barnes (2015: 66 and 66 n. 35).

[32] North (1981: 7–8); Burton (2011).

foundation of justice, 'mistress and queen of the virtues' (*Off.* 3.28), a virtue that is relevant for a statesman's conduct both within Roman politics and for guiding his dealings with other cities.[33] As for safety, Augustine interprets this to refer to Rome's physical well-being and security. In support of this interpretation, he cites a fragment from *De re publica* book 3 suggesting that a city should be set up so that it might endure forever, and that unlike human death, the death of a city is always unnatural (*Rep.* 3.34 [3.33 Powell]). If Cicero more generally held that the permissible aims of war were *fides* and safety, then one could see how revenge and warding off attack could express these aims. 'Revenge' would reflect the concern with breaches of *fides* and 'repelling the enemy' would reflect the concern with safety.

Augustine's purposes are polemical. He wants to drive a wedge between Cicero's commitment in the context of waging war to security, on one hand, and to *fides* on the other hand. Sometimes cities find themselves in situations where they cannot maintain both *fides* and safety at the same time, and, according to Augustine, Cicero gives no criteria for how to adjudicate this question (*Civ. Dei* 22.6). Augustine is particularly concerned with how these two permissible reasons for engaging in war may conflict when one views them as action-guiding ends when one is considering war. For example, in the Second Punic War, the Spanish city of Saguntum was put in the dilemma of having to choose between breaking their alliance with Rome – that is, *fides* – and risking the destruction of their city by Hannibal – that is, *salus*.

The potential conflict between these permissible ends for declaring war extends to the procedures that govern them. One would expect that wars into which one enters because of *fides* will usually follow the fetial procedures. Certainly this should hold true in statement 2 when one finds oneself commencing a war 'for the sake of revenge' – one should state the grounds of the complaint, give them time to be addressed, and if they are not, go through the rest of the process that *might* culminate in the formal declaration of war. However, what happens to these procedures as you consider concerns with safety, when you are confronted by an emergency that requires you to repel an attack by an enemy? Let us say that a (now former) ally betrays your alliance and assaults your city. Do you need to go through all three steps of the fetial procedure before you can use force to repel the attack? To put the critique in Augustine's terms, if you maintain the normal procedures, you will show your commitment to good faith but

[33] See E. M. Atkins (1990).

not to safety, and if you suspend the procedures, you will be committed to safety but not to good faith.

We should note that this Augustinian critique is consistent with the general argument by the character Philus in *De re publica*. In pursuing his case against justice, one of Philus's chief strategies was to show how wisdom, understood as prudently pursuing one's own advantage, conflicts with justice. In arguing for this position, he used examples that pitted an individual's desire for his own security against his obligations to others (*Rep.* 3.30 [3.16 Powell]). We know that Philus also applied these same insights to his analysis of cities in their relationships to one another (*Rep.* 3.28 [3.14 Powell]). One can easily imagine him objecting to the *repetitio* principle on the grounds that it forces one to commit to 'justice' at the expense of safety. Statement 2, construed as a supplement to the fetial procedure in statement 3, provides an interesting response to this objection. Given that security is also a permissible aim of a just war, and given that repelling the enemy supports that end, one could claim to wage a just war in a case where the expulsion of enemies requires action before one can go through the procedure of the fetial code. The claim that the only permissible aims of a just war are to seek 'revenge *or* repel the enemy' supplements the fetial code by allowing it to be adapted in times of emergency when the security of the state is under imminent threat. At the same time, it avoids granting Philus's point that in doing so one is privileging one's commitment to security over one's commitment to waging a *just* war.

If this reasoning is correct, then we can see why Cicero's statement of the fetial principle in *De officiis* 1 would separate *repetitio* from *denuntiatio* and *indictio*. Yes, typically the entire process should be followed, but there are times when one's commitment to the legitimate aims of war requires one to dispense with *repetitio*. Because this modified procedure is guided by the permissible aims of a just war, such a declaration of war is just. For Cicero to construe the fetial code in statement 4 so that a just war requires all three steps would once again open him up to the skeptical counterattack by an opponent such as Carneades or Philus. As we shall see, the skeptical attempt to separate wisdom and justice is also a concern with Cicero's discussion of warfare in *De officiis*. Hence, Cicero's statement 4 arguably has both historical and philosophical grounding.

The wider context of the debate in *De re publica* also shows why 'revenge' in statement 2 must be legally determined and limited in scope. As part of his case against justice in international relations, Philus had argued that imperial rule necessarily enslaves others. Because such enslavement

is unjust, empire is unjust (August. *Civ. Dei* 19.21). In response, Laelius seems to have distinguished the rule of master over slave from that of father over children (August. *Civ. Dei* 14.23). As Malcolm Schofield has persuasively argued,[34] this distinction allows Laelius to counter Philus's efforts to equate all rule (*imperium*) with the unlimited domination of master over slave. Thus, it is possible for Rome to exercise rule that does not reduce to unjust and unlimited exploitation by an imperial master. If this is indeed Laelius's strategy, then we have some idea of how just war may be designed to fit within the wider argument in *De re publica* book 3. Rome has not, as Philus has contended, acquired its empire through unjust conquest. Just as not all imperial rule is unjust slavery, so not every war is an unjust act of conquest that reflects the lust for mastery. If Laelius held that an injury gave the offended party an unlimited scope for 'vengeance', his distinction would collapse, and warfare, once commenced according to procedures of the fetial code, would allow the combatants free scope to assert their arbitrary wills over their opponents.

Justice, rendering to each his own, requires a sense of proportion. It is reasonable to assume that Laelius, anticipating the later tradition, held that proportion was an important factor for both a justly declared and justly conducted war. This conjecture is supported by evidence in *De officiis*. As we will see in the next section, *De officiis* reestablishes the view that the scope of war waged on behalf of injury should be constrained by its objectives. The scope of war is determined by its cause, that 'we may live in peace without injustice' (*Off.* 1.35). As a result, 'you must preserve some duties even towards those from whom you have received injury (*iniuria*); for there is a limit of revenge and punishment. It is sufficient that the assailant should repent of his injury…' (*Off.* 1.34).[35]

For now, however, we should conclude our discussion of Cicero's presentation of *ius ad bellum* by noting that Cicero's presentation of the fetial code does not exhaust his enumeration of the conditions for a justly begun war. In the passage in *De officiis* book 1 in which Cicero extends his discussion of injury (*iniuria*) to include the rules of war (*iura belli*), he famously argues that since 'speech' is more suitable to human nature than 'force', human beings should resort to physical violence only after diplomacy ('speech') has failed (*Off.* 1.34–5). The passage would later be adapted by Machiavelli in his *Prince*. As in contemporary just war theory, force is to

[34] Schofield (2017b).

[35] *sunt autem quaedam officia etiam adversus eos servanda a quibus iniuriam acceperis. est enim ulciscendi et puniendi modus; atque haud scio an satis sit eum qui lacessierit iniuriae suae paenitere.*

be a last resort, undertaken 'in order to live in peace without harm (*sine iniuria*)' (*Off.* 1.35).

Finally, Cicero anticipates the later tradition by stating that war must be waged by proper authorities. For Cicero, the laws of war (*iura belli*) are related to the *ius gentium*, the 'law of nations', which Cicero identifies with natural law (*Off.* 3.23, 3.69).[36] This natural law regulates the human community and stipulates that one may not pursue one's advantage by harming another member of the community (*Off.* 3.23). Tyrants and pirates, through their complete disregard for natural law and *fides* (good faith), tear apart the human community and in doing so remove themselves from the community. Consequently, tyrants and pirates are not proper authorities for conducting war and do not even fall under the protections of the laws of war (*Off.* 3.23, 3.107).

Of course, while we non-tyrants and non-pirates are all subject to the laws of war, we are not on this basis all proper authorities for waging war. What gives one proper authority for waging war? In *De legibus* Cicero answers this question by appealing to natural law. 'Nothing is so suited to justice and the natural condition as *imperium*', the coercive authority to command that gives force to law (*Leg.* 3.3). Those who possess legitimate authority reflect the *imperium* that governs the natural world (*Leg.* 3.3). This legitimate authority to command is exercised by different people in different polities: In a republic, those who rule must learn both to command and to obey (*Leg.* 3.5).[37] Only those magistrates who have been entrusted with *imperium* (or their subordinates) can wage war when authorized by the appropriate authorities, that is, by the decrees of the Senate and by the votes of the formally assembled people. This is a requirement for waging a just war (*Leg.* 3.9).

8.2 Justice within War

The fragments of *De re publica* book 3 speak primarily to the justice of going to war. *De legibus* supplements the discussion of the proper authority to wage war by specifying that legitimate warriors must 'spare the allies, restrain themselves and those under their command, increase the glory of their nation, and return home with honor' (*Leg.* 3.9). To consider Cicero's articulation of conduct within war in further detail, we must turn to *De officiis*.

[36] For discussion, see J. W. Atkins (2013: 220–1).
[37] See J. W. Atkins (2013: 208–10).

Cicero, drawing on the Stoicism of Panaetius, offers a useful general framework through which to consider the relationship between the legitimate authority to wage war, the end(s) of war, and conduct within war. Human beings have four *personae*, or roles, which we play (*Off.* 1.107–25).[38] The first two roles are given by nature – the first is our universal rational nature that we share in common with other human beings; the second is our personal nature, which consists of those unique qualities of character that make us 'our own' (*Off.* 1.110). The third *persona* consists of opportunities given by fortune (*Off.* 1.115). The fourth *persona* consists of the role in society we assume of our own volition, for example, that of a philosopher, a lawyer, or an orator (*Off.* 1.115). The fourth *persona* has its own internal morality governed by its own ends.[39] The rules of war within *De officiis* can be seen as an expression of the internal morality that governs those whose proper authority and sphere of competence lies within the military sphere.

Consider Cicero's discussion of the senior magistrate, whose 'proper function' (*proprium munus*) is to bear the *persona* of the city and to maintain its dignity and honor (*Off.* 1.124). By virtue of the social role he has assumed, he may use coercive force (*imperium*) to punish, whereas a private citizen could not. Indeed, were the magistrate to fail to use coercion when necessary but instead conduct himself as a private citizen, he would be considered a bad magistrate. In the Roman Republic, the consul's power of *imperium* – literally the power of life and death – extends to military affairs when he is on campaign. The magistrate on campaign is thus a legitimate authority for pursuing war, as are those soldiers who fight under him. War is to be limited to formally recognized soldiers, a principle that anticipates the later idea of 'discrimination' between soldiers and civilians, with only official soldiers being proper participants in war (*Off.* 1.36–7). Those who are authorized to prosecute war are guided by the internal morality of warfare, which is governed by the end of war: to restore peace without injustice (*iniuria*) (*Off.* 1.35).

To say the social role of military personnel has its own internal morality is not to say that the soldier is free from the considerations of justice that govern the human community. Like other social roles, that of a soldier is subordinate to the first *persona*, universal human nature that all human beings share as rational and social beings: One's actions cannot

[38] For the four-*personae* theory, see Gill (1988), Burchell (1998), Schofield (2012a), J. W. Atkins (2019), and Hawley (2020).

[39] For the idea of 'internal morality' determined by the fourth *persona*, see Remer (2017) (in relationship to oratory) and J. W. Atkins (2019) (in relationship to medicine).

conflict with this nature. The fourth *persona* is flexible and context-dependent but nevertheless linked to human virtue.[40] (Whether or not Cicero can consistently maintain a connection between the morality of warfare and universal, rational human nature raises important questions about the consistency of his theory, which we will consider later in the chapter.)

In addition to the ideas that war can only be waged by the proper authorities and that one must 'discriminate' between civilians and combatants, the internal morality of conduct within war anticipates other principles of *ius in bello* held by contemporary theorists. For example, *De officiis* 1.40 and 3.86 forbid poisoning, a classic example of means that are *mala in se* – 'evils in themselves' – and are on these grounds forbidden by just war theorists. Cicero's suggestion that soldiers should show leniency in punishment anticipates the modern idea of proportionality: The force that is employed should not exceed one's objectives. The fact that the goal of war is to restore peace without injustice means that punishment should be limited to measures that will subserve that purpose. Accordingly, Cicero argues that one should show mercy even if a city does not surrender until after its gates have been destroyed by a battering ram, the point beyond which Romans traditionally did not offer quarter to enemies (*Off.* 1.35). In doing so, one adheres to the principle of 'peace without treachery' (*pax quae nihil habitura sit insidiarum*); that is, of maintaining honorable relations even with a defeated enemy. In Cicero's opinion, it was Rome's failure to adhere to this principle during the recent civil war between Pompey and Caesar that led to the loss of its *res publica* (*Off.* 1.35).[41] The discussion of the morality of warfare in *De officiis* 1.38–40 adds the following constraints on conduct within war: Truces, treaties, oaths, and promises should be honored; acts that dishonor one's country should be avoided (*Off.* 1.40, 1.159, 3.86; cf. *Leg.* 3.9); and, once the fighting has ended, the victor should spare those who were not 'cruel or savage in warfare' and give refuge to those who seek it (*Off.* 1.35).

In *De officiis*, Cicero also revisits the matter of how the cause of war may limit both its scope and permissible means of conduct. As we saw in the last section, according to Augustine Cicero in *De re publica* identified safety and *fides* as the two permissible ends of war. Given that a just war

[40] See J. W. Atkins (2019).

[41] Cicero's use of 'peace without treachery' at *Off.* 1.35 refers to the recent civil war between Pompey and Caesar, but within the broader context, it is clear that he extends the principle to cover relations with foreign cities.

can be fought for safety, the expulsion of enemies constitutes a just cause for engaging in war no less than (say) the violation of a treaty. Let's return to this issue and see how these two ends impact conduct *within* war.

While Cicero does not explicitly try to reconcile the dual aims of war from *De re publica* with the more general expression of the end of war identified in *De officiis*, it does not require much imagination to see a concern for *fides* and safety as two particular aspects of what it means to seek 'peace without injustice' – as we noted before, *fides* is foundational for Cicero's account of justice in *De officiis* and peace would seem to require security. And in fact in *De officiis*, Cicero gives a number of examples discussing how the twin concerns of *fides* and security impact action within war.

According to Cicero, considerations of *fides* and the safety of the republic are action-guiding for conduct within war. The most well-known example of concern for *fides* guiding conduct within a war is that of Marcus Regulus, whose story Cicero introduces in book 1 and elaborates upon in book 3. Regulus, a general during the first Punic War between Rome and Carthage, was captured in an ambush in North Africa. He was sent back to Rome in order to persuade the Senate to agree to a prisoner exchange with the Carthaginians. Before he left, he promised to his captors that if the Senate did not agree to the exchange he would nevertheless return to Carthage. Upon arriving in Rome, he judged that the prisoner exchange would not be beneficial to Rome, and, despite the pleas of his countrymen to remain at Rome, he honored his oath and returned to Carthage and a certain death by torture (*Off.* 1.39, 3.99–111).

When Cicero first introduces Regulus, he underscores the importance of keeping promises (*Off.* 1.39); the second time, the example serves the different purpose of illustrating the difference between apparent and genuine benefit. Regulus's self-sacrifice reflected genuine benefit because he benefited the republic (*Off.* 3.101); conversely, his personal security reflected an apparent benefit because it did not benefit the republic. This lesson reflects one of the themes of book 3 (and indeed of *De officiis*): The benefit of the individual cannot conflict with the benefit of the republic. The morality of warfare may require one to sacrifice one's life and personal glory for the republic (cf. *Off.* 1.83). Hence, in the case of Regulus, commitment to *fides* overrides his concern for his personal safety because in this instance he judged that promise-keeping benefitted the republic.

The story of Regulus is so powerful that it is easy to mistake Cicero's point. First, as Cicero makes clear, Regulus was right to return to Carthage because his return was beneficial to the republic (*utile patriae*, *Off.* 3.110),

not because promises are inviolable.[42] In *De officiis*, Cicero makes it clear that honoring a promise is not always the appropriate action. It is certainly not appropriate to honor a promise when doing so will damage the republic. For instance, one should not honor one's promise to return a deposit to someone who is planning to make war on one's republic. In this case, 'you would be acting against the interests of the republic, which ought to be dearest to you' (*Off.* 3.95).[43] Cicero explains that things that seem to be honorable may become dishonorable through circumstances: 'to keep promises, to stand by agreements, and to return deposits become no longer honorable when what is advantageous changes' (*Off.* 3.95).[44] As Cicero had stipulated in book 1, justice in such cases requires that one's actions 'alter with the circumstances, and duty alters likewise, and is not always the same' (*Off.* 1.31).[45]

Second, the example of Regulus prompts us to reflect on how we should calculate benefit to the republic. We might reasonably ask how Regulus's decision to keep his promise and hence to suffer death benefitted the republic more than his simply disagreeing to the prisoner-exchange and preserving his life by breaking the promise. One might even argue that Rome's ability to have at its disposal a courageous and skilled general like Regulus would most benefit the republic in its struggle against Carthage. Cicero's response would be two-fold: First, one must realize that Rome's true interests must be its long-term interests, and it benefits Rome in the long term to have promise-keeping citizens even if from the perspective of the short-term consideration of national security the republic is harmed by losing such a skilled and brave soldier as Regulus.[46] Second, as Cicero shows with another example of Rome's refusal to do a prisoner exchange – this time with Hannibal during the Second Punic War, honorable conduct in war when facing adversity is itself a genuine advantage or source of influence in international relations: Rome's commitment to its own honor and dignity broke Hannibal's spirit (*Off.* 3.113–14).[47]

Both of these lessons – that promises and treaties must promote the advantage of the republic and that this advantage must be conceived as the republic's genuine, that is, long-term advantage – are important to keep

[42] On this matter, Cicero differs from Kant, to whom he is sometimes compared on this point. Compare Nussbaum (1997: 13), who emphasizes the similarity between Kant and Cicero, and Woolf (2007), who notes the contrast.

[43] *facies enim contra rempublicam, quae debet esse carissima.*

[44] *facere promissa, stare conventis, reddere deposita commutate utilitate fiunt non honesta.*

[45] *ea cum tempore commutantur, commutatur officium et non semper est idem.*

[46] Compare *Off.* 3.90 with Griffin and E. M. Atkins (1991: 115 n. 1).

[47] For this point, see J. W. Atkins (2018: 174).

in mind when assessing how one should act when one's commitment to *fides* conflicts with one's commitment to the republic's safety, the other important action-guiding end in war (cf. *Off.* 3.88). When reflecting on the *res publica*'s genuine interests, there are times when one should judge it to be in the interests of the *res publica* to sacrifice security in order to uphold honor. For instance, at *Off.* 1.159 Cicero notes that some things are so shameful that the *res publica* won't want the just man to do them on its behalf, even to protect it. He doesn't say what these things are. But from his discussion elsewhere we might gather that one of these actions would involve poisoning.

Consider Cicero's handling of the consul Fabricius's treatment of the Greek king Pyrrhus of Epirus, with whom Rome was fighting in the early third-century BCE (*Off.* 1.40, 3.86). When a deserter offered Fabricius the opportunity to poison Pyrrhus, the Roman general declined – a decision that was praised by the Roman Senate. By one calculation, poisoning Pyrrhus would have enhanced Rome's security; it would have ensured Rome's supremacy and saved numerous lives by ending the war, 'but it would have been a great shame and disgrace (*magnum dedecus et flagitium*) for us to have overcome, not by manly virtue but by crime, a man with whom we were competing for praise (*certamen laudis*)' (*Off.* 3.86). Cicero concludes that neither glory nor other advantages can be achieved in imperial combat when conduct in war is accompanied by wicked actions that bring disrepute (*Off.* 3.87).

There is one further consideration. The examples thus far have dealt with instances in which the genuine advantage of the republic had to be discerned when the possible actions threatened either the honor or security of the republic, but the threats to security were not so great as to threaten the very survival of the republic. Cicero describes the war with Pyrrhus as an instance of an imperial war for honor in which the rules of conduct within war, drawn from the honor code of the Mediterranean world, are in play. He distinguishes such a war from another type, one in which the very survival of the republic is at stake (*Off.* 1.38). How does conduct within war change when one must consider ensuring not merely the security that comes from one's accustomed standing and power within the international community but the survival of one's state?

Cicero admits that wars for survival are fought 'more bitterly'. Do the rules of war apply in such a scenario? If one is fighting someone who does not possess proper authority for making war – a tyrant or pirates – the answer is 'no', but for the reason that Cicero does not believe the rules of war apply in these cases in the first place. One might argue that all such

wars for survival are wars with tyrants on the grounds that the sort of leaders who would threaten the very existence of a political society likely show a tyrannical disregard for justice that places them beyond the universal human society. As soon as a justly declared war is transformed into a war of survival, the 'rival' (*competitor*) becomes a 'deadly enemy' (*hostis*) who stands outside the requirements of a just war.[48] This is a plausible interpretation of Cicero's position. However, it has the downside of placing a weight on the distinction between 'rival' and 'enemy' at *De officiis* 1.38 that later passages do not consistently support. In a justly declared war, promises must be kept, even to a treacherous enemy (*hostis*) (*Off.* 3.108). I myself find more attractive the following alternative formulation of Cicero's position on wars of survival between proper authorities: In a situation where one is confronted with the necessity of survival, one should aim to meet this necessity while still being guided by the overarching end that guides the internal morality of war, that is, to restore peace without injustice. On my reading, Cicero thinks that conduct within war should accommodate necessity much as conduct at the outset of war where the fetial code may be modified to allow a just war to be commenced when compelled by necessity. Justice should still be sought even if changing circumstances require adaptations to procedures (cf. *Off.* 1.31 and 3.95).

In this context, let's reconsider the dilemma Augustine posed for Cicero through the example of the Saguntines during the Second Punic War. Should they break their promise to an ally or allow the destruction of their city? I think that Cicero's answer would be that if fealty to a treaty means the sure and imminent destruction of one's city, then one would be justified in setting aside one's treaty. In the instance where the very survival of the republic was threatened (as opposed to danger short of utter destruction, which is presumably in view at *Off.* 1.159 and 3.87), Cicero would likely make allowance for the use of other means, such as the use of poisoning, which would otherwise be illicit in war. As Cicero points out in *De officiis* book 3, doing something dishonorable in the interest of your country when it is threatened by 'some grave contingency' is not 'morally ugly' (*Off.* 3.93). Thus, within his just war theory, Cicero allows for what political theorist Michael Walzer calls 'dirty hands'.[49] We may accommodate 'extreme necessity' by performing some action that would in other circumstances be morally illicit according to the internal morality of war.

[48] Stewart (2017).
[49] I borrow the phrase from Walzer (1973).

However, one must keep in mind two limiting considerations on 'dirty hands'.[50] First, the accommodation to necessity takes place within the context of the internal morality of war and should be guided by its ends, to regain a status of peace without injustice. An act requiring dirty hands should not go beyond what is needed to ensure the survival of the city and to bring it, along with the city of one's adversaries, into a condition of peace without injustice. Granted, Cicero believes that in a war for survival, the internal end of warfare (peace without injustice) could justify the complete destruction of a city, as was the case when Rome 'completely destroyed' Numantia at the end of the Celtiberian War in 133 BCE.[51]

Second, while accommodation to necessity is a prudential decision based on a judgment about utility, the utility in question is ultimately determined by a consideration of human beings' rational nature and the human condition.[52] The rules of war may be accommodated to the necessity to preserve the republic because of the republic's great utility; this utility in turn derives from the fact that the republic is the political form that best helps human beings fulfill their natures as rational and social beings.[53] This conception of utility greatly limits the grounds on which one may make accommodations to necessity. Accommodation to necessity may only be motivated by regard for the immediate survival of the type of political community that promotes human beings' natural end of sociability. Utilitarian calculations based on other considerations are not relevant.

This understanding of necessity in which actions are justified if they promote the *immediate survival* of states, a justification based in turn on the republic's unique utility for human sociability, perhaps explains Cicero's discomfort with Rome's destruction of Corinth, a member of the Achaean League of Greek states allied with Rome, which in 146 revolted against Rome. He speculates that the Romans probably did this because they anticipated that Corinth's propitious location would likely one day make it a future threat to Rome (*Off.* 1.35). Though Cicero states his objection to Corinth's destruction as his personal preference in book 1, when he returns to the case in book 3, he regards Rome's actions as 'wrong done

[50] Cicero himself explicitly places limits on what one can do to benefit the republic at *Off.* 1.159. He does not enumerate what activities are so 'disgraceful or outrageous' that the wise would refuse to do them even to protect their country. However, he points out that they would be judged according to the true benefit or advantage of the republic. This suggests the importance of the proper estimation of utility, which turns out to be guided by the consideration of humanity's rational nature.

[51] *Off.* 1.35; Cicero identifies the Celtiberian War as a war for survival at *Off.* 1.38.

[52] Compare Nicgorksi (1984: 574).

[53] See J. W. Atkins (2022: 248).

under the guise of advantage' (*Off.* 3.46). One cannot justify an action that departs from the rules of war because one judges that it would be advantageous for the security of one's state *unless the survival of the state is immediately* threatened. Furthermore, as the example of Regulus shows, an individual could not appeal to extreme necessity to avoid abiding by an agreement in war because he judged that keeping his promise would be extremely painful or would lead to his own death. As Laelius points out in a passage cited by Augustine in his discussion of just war, death is natural and necessary for an individual but not for the republic (cf. *Rep.* 3.34 [3.33 Powell]). Because Cicero's justification for and limits to accommodation to necessity derive from the same account of utility that constitutes the republic's value, he is able to offer a coherent response to the problem of justifying and limiting actions of necessity within war, a problem with which modern just war theorists must still grapple.[54]

Cicero's discussion of justice within war requires prudence, the virtue of practical reasoning that allows one to calculate one's proper actions in changing circumstances. The virtue is relevant to all aspects of war. It is required to avoid war, declare war, and bring war to a proper conclusion (*Off.* 1.79). However, as we have seen, it is an especially important virtue in the book 3 scenarios where one must accurately separate true utility from its imposter, an exercise that requires the use of genuine prudence rather than its imitation.[55] Book 3 is filled with dilemmas that seem to separate the advantageous from the just, evoking the sort of strategy employed by Philus in book 3 of *De re publica*.[56] Just as Cicero's account of war in *De re publica* had to face up to the challenge posed by the skeptical view that the prudential concern with advantage was inconsistent with justice, so too for his account of conduct within war in *De officiis* 3. In order to meet this challenge, Cicero's account of justice within war has enough content to be action-guiding but is flexible enough to respond to necessity and changing circumstances.

8.3 Wars for Glory of Empire and the Fetial Principle

As with any influential theory in the history of political thought, Cicero's account has had its detractors. Like Augustine, modern scholarship has focused on perceived inconsistencies in his theory. First, scholars have

[54] See e.g. Walzer (1977: 233–68).
[55] Dyck (1996: 618).
[56] Schofield (1999).

detected inconsistencies between Cicero's discussion of the justice of going to war, based on the fetial principle (linked in turn to the legal notion of injury from the Roman law of delict) and his discussion of conduct within war, based largely on the competitive honor code of the ancient Mediterranean world.[57] The most problematic passages are those where Cicero attempts to justify wars undertaken on behalf of imperial glory. Consider, for instance, the following passage (*Off.* 1.38):

> But when one contends for empire and glory is sought in war, it is nevertheless fitting that there be present the same grounds (*causas*) that I said earlier were the just grounds (*iustas causas*) for wars. But those wars by which the glory of empire is displayed must be waged less bitterly. For as we contend differently with a fellow citizen if he is an enemy than if he is a competitor (for the latter is a contest for honor and standing [*certamen honoris et dignitatis*], with the former for life and reputation), so with the Celtiberians and Cimbrians war was waged as with enemies to determine which state would survive, not to determine which state would rule.[58]

'The just grounds for wars' Cicero mentions at the beginning of the extract clearly refer to the fetial rites, and in particular, their formulaic request for satisfaction of injury: *res repetere* (cf. *Off.* 1.36 and *Rep.* 3.35 [3.25 Powell]). How are we to understand Cicero's stress that the fetial principle should apply to conflicts over *imperium* in which 'glory is sought through war'?

In order to understand the passage, we must situate the fetial code within its various legal, social, and religious contexts. In his reconstruction of Cicero's 'just grounds for war' discussed earlier, Jonathan Barnes offers a largely juridical account of the fetial principle. However, as we also noted, we must take account of the connection between *iniuria* and honor in the Roman law of delict that influenced Cicero's account of just war. As Jill Harries points out, 'violations of honor were at the root of *iniuria*'. Indeed, 'the ideology of the offense is rooted in Roman beliefs in the importance of honor and reputation'.[59]

It is also important to keep in mind the religious and political contexts of the fetial code. Through the declaration of war, the Senate and priests are making a claim about justice – the offending party was 'unjust by

[57] Brunt (1988: 307–8), Griffin and E. M. Atkins (1991: 98 n. 4), Dyck (1996: 146–8), and Barnes (2015: 71).

[58] *cum vero de imperio decertatur belloque quaeritur gloria, causas omnino subesse tamen oportet easdem quas dixi paulo ante iustas causas esse bellorum. sed ea bella quibus imperii proposita gloria est minus acerbe gerenda sunt. ut enim cum cive aliter contendimus si est inimicus, aliter si competitor (cum altero certamen honoris et dignitatis est, cum altero capitis et famae), sic cum Celtiberis, cum Cimbris bellum ut cum inimicis gerebatur, uter esset, non uter imperaret.*

[59] Harries (2007: 49).

right' (Plautus, *Amphitryon* 247).[60] At the same time, this act also testifies to *maiestas*, a word with both religious and political orientations. *Maiestas* evokes the majesty of the gods and indicates a political community's 'sovereignty' and 'dignity'.[61] Romans can speak of the *dignitas* ('worthy standing'), *maiestas*, and *gloria* of the *res publica*. The *dignitas* of the *res publica* no less than that of an individual can be diminished.[62] To speak of the glory, sovereignty, and worthy standing of the Roman *res publica* was to speak abstractly about the *res publica*: Its status and glory was not strictly reducible to the glory of any individual or of one of its constitutive parts. At the same time, there is an intimate connection between the honor, glory, and standing of the *res publica* and that of the individual magistrates elected to promote its interests. As Louise Hodgson notes, magistrates conceived of insults or injuries to the *res publica* as insults or injuries to themselves, and vice versa.[63] Cicero at *De officiis* 1.124 presents magistrates as bearing the *persona* of the city and as a consequence are obligated 'to support its worthy standing (*dignitas*) and honor (*decus*)'.[64]

Of course, in 'international relations', unlike in civil law, there is no one to arbitrate instances in which rights have been violated and one's standing has been diminished. Hence, the aggrieved party calls on the gods to judge and vindicate his claims through a favorable outcome in battle. The gods ensured that the outcome of a war proved who was in the right (cf. Livy 21.10.9 and Dante, *De Monarchia* book 2).

These interconnected legal, religious, and social contexts explain why Cicero can easily draw a connection at *De officiis* 1.38 between requesting reparations for injury and glory in combat between imperial powers. Cicero here makes what would to Roman ears be an obvious point, that if you are engaged with another imperial power over a grievance, which the Romans would naturally take to involve a point of honor and standing (*certamen honoris et dignitatis*), you should compete honorably, as one worthy of that standing (*Off.* 1.38). In such a context, the desire to receive recognition from one's fellow competitors – a deep-seated desire in status-seeking honor cultures – leads to 'less bitterly' waged wars, especially when one also recognizes the worthiness of one's competitors.

[60] See Harris (1979: 169). The Latin is *iure iniustas* referring in context to enemy troops (*hostium copias*).
[61] Drexler (1988).
[62] For texts, see Drexler (1958: 24–30).
[63] Hodgson (2017: 29).
[64] I owe the reference to *Off.* 1.124 in this context to an anonymous reader for Cambridge University Press.

The logic of mutual recognition between honorable combatants is also evident in Pyrrhus's words in a fragment from the poet Ennius, quoted by Cicero at *Off.* 1.38 as illustrative of the morality of the Mediterranean honor code exhibited in wars for imperial glory:

> My demand is not for gold; nor shall you give me a price. Let us each determine our lives by iron, not by gold, not by selling, but by fighting war. Let us test by our courage (*virtus*) whether Mistress Fortune wishes you or me to reign, or what she may bring. Hear these words too: if the fortune of war spares the courage (*virtus*) of any, take it as certain that I shall spare them their liberty. Take them as a gift, and I give them with the will of the great gods.[65] (trans. E. M. Atkins, slightly modified)

This passage has been interpreted as advocating an ethic based on a notion of fair play inherent in an ancient honor culture rather than on justice.[66] However, Cicero clearly sees this 'duel before the gods' as connected to justice as specified by the principles of just cause. When addressing the case of Pyrrhus elsewhere in both *De officiis* books 1 and 3, Cicero mentions that the Greek general is waging war unprovoked (*ultro*), and so according to Cicero's analysis of just causes of war, Rome is justified in resisting. Perhaps Pyrrhus would dispute Rome's claims to wrongdoing. Hence, the duel before the gods, eloquently described by Ennius, to determine whose claims will be vindicated.

In short, to separate claims of injury and justice from notions of honor and 'fair play' befitting a 'gentleman' is to make a distinction unknown to Cicero and the Romans.[67] Many modern readers may find it troubling that Cicero includes honor among the advantages over which one may wage war. This raises, for example, a question regarding proportionality: What kind of injury to honor would be sufficient grounds for waging war? Surely rude words spoken to an ambassador on a diplomatic mission would not constitute grounds for war![68] However, Cicero's position becomes more

[65] *nec mi aurum posco nec mi pretium dederitis,*
nec cauponantes bellum sed belligerantes
ferro, non auro, vitam cernamus utrique.
vosne velit an me regnare era quidve ferat Fors,
virtute experiamur. et hoc simul accipe dictum:
quorum virtuti belli Fortuna pepercit,
eorundem me libertati parcere certum est.
dono ducite doque volentibus cum magnis dis.

[66] Von Heyking (2007: 13–15).

[67] For this basic distinction, see Ignatieff (1998: 120), von Heyking (2007), and Barnes (2015: 69) – to which the above quotes refer.

[68] Such insults are alleged in some sources as the cause of the war that led to the destruction of Corinth (references at Broughton and Patterson, 1951: 464).

comprehensible when we remember that to the Roman mind other grounds for just war – *iniuriae* caused by harm done to Roman territory, property, and lives – would also be seen as an affront to Roman honor. Due to this link between injury and dishonor, the question of proportion – whether an affront is grave enough to warrant the use of force – must be answered in *any circumstance* in which one seeks to wage a just war. The question of proportionality must be answered any time one contemplates violence. If proportionality is a problem, then it is problematic for Cicero's (and indeed the later tradition's) account of just war as a whole, not merely for so-called 'wars for glory'.

Another passage where Cicero's treatment of empire is thought to be in contradiction with his account of the fetial principle is *De officiis* 2.85. Cicero writes:

> This sort of lavish distribution, then, when one takes from some in order to give to others, is one from which those who are to protect the republic will refrain. Above all, they will make every effort to enable each man to keep that which is his, through the fairness of the law and of the lawcourts; and to stop the weak from being oppressed because of their lowly state and the rich from being prevented through envy from maintaining or recovering what is theirs; and besides this, by whatever means they can, whether in war or at home, to increase the republic in power, in land and in revenues. Such are the deeds of men who are great; such deeds were achieved in our forefathers' day. Men who pursue these kinds of duties will win, along with the utmost benefit to the republic, both great gratitude and great glory for themselves.[69] (trans. E. M Atkins)

The problematic sentence is the one in which Cicero suggests that the great men will strive 'by whatever means they can, whether in war or at home, to increase the republic in power, in lands and in revenues'. Margaret Atkins and Miriam Griffin note, 'C[icero's] economic rationale for Roman imperialism even in the past is very hard to reconcile with his view of just wars (1.35–8)'.[70] Andrew Dyck comments, 'This advice is not atypical of an unreflective acceptance of their imperium often found in Roman writers of the time'.[71]

[69] *ab hoc igitur genere largitionis, ut aliis detur, aliis auferatur, aberunt ii qui rempublicam tuebuntur, in primisque operam dabunt ut iuris et iudiciorum aequitate suum quisque teneat, et neque tenuiores propter humilitatem circumveniantur neque locupletibus ad sua vel tenenda vel recuperanda obsit invidia, praeterea, quibuscumque rebus vel belli vel domi poterunt, rempublicam augeant imperio agris vectigalibus. haec magnorum hominum sunt, haec apud maiores nostros factitata, haec genera officiorum qui persequuntur cum summa utilitate reipublicae magnam ipsi adipiscentur et gratiam et gloriam.*

[70] Griffin and E. M. Atkins (1991: 98 n. 4).

[71] Dyck (1996: 479).

However, Cicero's description need not be inconsistent with his stress on the fetial procedure provided that one assumes that Cicero in this passage is speaking of a justly declared war.[72] Within the wider context of the passage, Cicero's aim is to balance the statesman's duty to protect private property, which he has just been defending, with his duty to consider the welfare of the republic. The statesman must keep an eye to its welfare – including its material welfare – at all times, whether he is involved in a military operation or in domestic politics. But this admonition does not commit Cicero to the view that increasing the *res publica* in power, glory, and material resources should be the motive for undertaking a war in the first place. Cicero here is making a claim about the results of war rather than the purpose of going to war, and it is consistent with his argument elsewhere that rule, glory, and resources can be acquired through a just war.[73]

The logical distinction between the results of war and the purpose of going to war is an important one to maintain, all the more so because of the tendency for imperial powers like Rome to ignore it. We must not cynically suppose that the acquisition of resources as the result of war need indicate that their acquisition was also the reason why the war was declared in the first place. Consider, for instance, the position of St. Ambrose. While Ambrose does not believe that a just war could ever be declared for purposes of an empire's honor or glory, he indicates that combatants properly receive glory when they have risked their lives in a just war to bring about peace for all.[74] Cicero does allow for wars to be fought on account of glory, and yet he, like Ambrose, maintains an asymmetry in his account between the pursuit of glory at the outset of war and during the waging of war. For him, the asymmetry lies in the motives for which glory is pursued. As we have seen, Cicero's 'just wars' for glory are not initiated out of a desire to acquire glory through, for example, the expansion of territory, but because one's reputation or standing or honor was injured and one is seeking restitution for the injury. But once war is declared the combatants may seek to bring greater glory to themselves and to their republic and make its standing as strong as possible. It also means that, as in the case of Ambrose, honorable service according to the rules of war will bring greater glory to the combatants. Indeed, in Cicero's case, the fact that the ancestors who fought in war brought glory to themselves *as a result* of their service provides evidence that the rules of war were followed. After

[72] See also Keller (2012: 100).
[73] Keller (2012: 101 n. 370).
[74] Ambrose *De officiis* 3.23; see J. W. Atkins (2018: 181).

all, according to Cicero, one cannot win glory within war by breaking the honor code on which the rules of war depend.

Cicero's suggestion that the ancestors attained glory and favor 'with the utmost benefit to the republic (*cum summa utilitate reipublicae*)' likewise is consistent with upholding the rules within war. As we saw earlier, Cicero explains that Marcus Regulus's decision to keep his oath and return to the Carthaginians and to a certain death upheld the rules of war (*Off.* 3.108–9) and was therefore beneficial to his country (*Off.* 3.110). Making allowance for the possible exception where accommodation to necessity may be made in the case of a war for survival, Cicero believes that in a justly declared war honorable and honor-bringing conduct, such as promise-keeping, benefits the *res publica*, whose 'interests … ought to be dearest (*carissima*)' (*Off.* 3.95). In short, there is no reason to suppose that Cicero believes that a statesman's duty to look to the benefit of Rome's wealth and power should supersede the requirement to observe the procedures of the fetial code at the outset of war or the rules of just-conduct within war. Cicero's approval of those who seek Rome's benefit 'by whatever means they can' must ordinarily be limited by the rules of war.

8.4 Just Wars and Stoic Justice

Scholars have also doubted Cicero's attempt to link his account of just war theory with the account of justice he inherited from the Stoics and promoted throughout *De officiis*. Here there are two objections. First, scholars have suggested that Cicero's allowance of war on behalf of one's country contradicts his commitment to the Stoic theory of justice that fosters an allegiance to the *societas* of all human beings.[75] Second, Cicero's treatment of just war allegedly exposes the inconsistency haunting his attempt to bring the Roman honor code into conformity with the Stoic account of justice based on human beings' rational nature.[76] Both difficulties tie in to the more general matter of adjudicating duties (bellicose or otherwise) in a Stoic thought-world that is ultimately cosmopolitan but makes room for more local obligations and activities.[77]

Consider first the problem about the relationship between war and Cicero's account of *societas*. This problem is situated within the wider

[75] E. M. Atkins (1990: 277).

[76] Brunt (1988: 308 n. 63).

[77] For fuller treatments, see E. M. Atkins (1990), Reydams-Schils (2005), and J. W. Atkins (2022). For examinations of local commitments and duties within a broader cosmopolitan framework by contemporary philosophers, see Appiah (2006) and Nussbaum (2019).

context of Cicero's dual commitments to cosmopolitan justice and Roman patriotism. In *De officiis* Cicero clearly articulates a cosmopolitan account of justice. At *Off.* 1.50–1, he states: 'The most widespread fellowship existing among human beings is that of all with all others'.[78] Likewise, *Off.* 3.27–8 stipulates that we have duties to all human beings simply by virtue of their being human and regardless of citizenship or fatherland.[79] On the other hand, *Off.* 1.51–7 suggests that a citizen's greatest allegiance should be to their own *res publica* and implies that patriotism is a virtue. Elsewhere I have argued that Cicero's decision to prioritize the *res publica* over other *societates* is justified from the account of human sociability that is at the root of his cosmopolitanism. Cicero argues that the *res publica* is the political form that best promotes and enhances human beings' natural social drive by meeting their natural needs and reconciling self-love and an altruistic, other-regarding love.[80]

However, one may suppose that Cicero's account is threatened by the fact that the patriotic sacrifice is one of Cicero's clearest examples of the reconciliation between self-love and altruism (cf. *Off.* 1.57 and *Fin.* 3.64). To sacrifice one's life for one's country is altruistic because one is giving one's life for others; however, such a sacrifice is also self-interested because the patriot is giving their life for what they consider to be their own and hold extremely dear. Such sacrifices usually take place in the context of war, where citizens harm other members of the larger human *societas* in the defense of their own *res publica*, a fact that may seem to be incompatible with Cicero's cosmopolitan commitment to uphold human society.[81]

To this objection, there are two Ciceronian responses. The first is to stress that the justification for war in Cicero's view is on the basis of the same value as that which grounds human sociability; namely, that of justice. For Cicero justice is the 'mistress and queen of virtues' (*Off.* 3.28) because it builds up human society.[82] Justice for Cicero consists in giving to each their own.[83] The 'first duty' attached to the virtue is that 'one should not harm anyone unless one has been provoked by injustice (*lacessitus iniuria*)' (*Off.* 1.20). The injustice which may rightfully result in punishment, according to Cicero, may be either to oneself or to one's

[78] *ac latissimi quidem patens hominibus inter ipsos, omnibus inter omnes societas haec est.*

[79] Of *Off.* 3.27, Nussbaum (2000: 185) notes: 'this section makes it very clear that Cicero's duties of justice are fully cosmopolitan'.

[80] See J. W. Atkins (2022: 246–50).

[81] For this objection, see E. M. Atkins (1990: 277).

[82] E. M. Atkins (1990).

[83] Hence Michel (1969: 174) sees Cicero's account of just war as a form of distributive justice.

neighbor. For Cicero, to refrain from acting when you are in a position to prevent an injustice to those around you is itself an injustice (*Off.* 1.23, 1.28): 'The person who does not defend [his fellow citizen or ally] and does not oppose his injury (*iniuriae*) if he is able is as much at fault as if he should abandon his parents, friends, or country' (1.23).[84] Cicero sees just war as an application of upholding justice both to oneself and to one's allies (cf. *Off.* 1.34–5, 2.26 and *Rep.* 3.36 = August. *Civ. Dei* 19.2). This commitment to justice sometimes requires force. Ultimately, then, Cicero justifies war as a concern for sociability by connecting it to justice, the most important of the social virtues. Justice is essential to the human community inasmuch as it promotes the sociability on which this community depends. Commitment to justice, human sociability, and the human community means that sometimes one may justly use force against aggressors.

Seeing war, which destroys one's fellows, as justified by a commitment to sociability has struck some later readers of Cicero as paradoxical. At the same time, others have found a power in Cicero's logic. For instance, in his reworking of Cicero, St. Ambrose influenced the Christian just war tradition by arguing that Christ's command to love one's neighbor justifies the use of force, for how can one claim to love one's neighbors when one sits by passively and watches them suffer harm?[85] My point is not to recommend one side or another of this debate, but simply to indicate that far from indicating 'muddled' thinking,[86] Cicero's treatment of the relationship between war and commitment to human sociability is based on a coherent line of argumentation that later thinkers have found persuasive. Indeed, one might say that historically the difference between those who embraced pacifism and those who embraced just war theory in the Christian just war tradition depended on whether one finds Cicero's logic (baptized by Ambrose) persuasive.[87]

The second response focuses on advantage. Cicero acknowledges that war takes a horrific toll on the human race: He cites the Peripatetic philosopher Dicaearchus's calculation that more human beings have perished from warfare and human violence than from all natural causes of death combined (*Off.* 2.16). Yet human beings also provide the greatest advantage for one another if their social instinct is fostered (*Off.* 2.17). Since

[84] *qui autem non defendit nec obsistit, si potest, iniuriae, tam est in vitio quam si parentes aut amicos aut patriam deserat.*

[85] Cf. Ambr. *Off.* 1.179 and Cic. *Off.* 1.23, 1.28, with J. W. Atkins (2018: 181–2). On early Christian responses to war, see Swift (1983).

[86] E. M. Atkins (1990: 277).

[87] For pacifism and just war theory in early Christianity, see Swift (1983).

the *res publica* is the form of society best able to foster human sociability, citizens who are devoted to their own *res publicae* are crucial for benefitting the universal human *societas*. To see the logic, let's adapt one of Cicero's own examples, taken in turn from the Stoic Hecato. Just as the *res publica* is generally benefitted by the loyalty of children toward their parents, even if there are times when a particular child's loyalty to a parent is not in the short-term interest of the *res publica*, so the human fellowship is ultimately best fostered by patriotic citizens who strive above all to see the flourishing of their own various *res publicae*, even if at times this commitment may lead to results (e.g. the use of violent force to take human life) that do not appear to be in the best short-term interest of the human race.[88] In the long run, the destructive forces of human violence and natural disasters alike are most reduced through flourishing political societies.[89] Thus, according to Cicero, one best benefits the universal human society indirectly by making one's first and firmest allegiance to one's own republic. This position is compatible with the Stoic 'principle of proximity', articulated by Cicero at *De officiis* 1.50: 'Human society and its union will be best preserved if your acts of kindness are conferred upon each person in proportion to the closeness of their relationship to you'.[90]

What about the relationship between Cicero's treatment of glory within the context of war and his theory of justice? Does his general commitment to Stoicism in *De officiis* contradict his argument that just wars may be fought for honor, glory, and reputation? To answer this question, we need to get clear on how the Stoics thought of glory and how Cicero understood their thought on this point. Greek Stoics distinguished between 'fame' (*doxa*) and 'glory' (*timē*). They classified the former as a 'preferred indifferent' and the latter as a 'good' possessed by the virtuous.[91] Cicero maintains the distinction between the type of glory, praise, or good reputation as a preferred indifferent and the sort bestowed on the virtuous by the virtuous (*Tusc*. 1.109–11; *Leg*. 1.32). However, he does not indicate this difference by assigning one Latin term to *doxa* and another to *timē* but by appropriately modifying terms like *laus* (praise, reputation), *honor* (honor, rank), and

[88] At *Off*. 3.90 Hecato urges that it is in a country's interest for a son to defend his treasury-robbing father out of a sense of *pietas* because having loyal citizens benefits the country in the long run.

[89] Compare *Off*. 2.15 and 2.17 in light of the above argument. Appiah (2006: 163, 167–8), citing the work of Amartya Sen on democracies and famine, argues that modern cosmopolitans should recognize the importance of healthy regimes for human flourishing.

[90] *optime autem societas hominum coniunctioque servabitur si, ut quisque erit coniunctissimus, ita in eum benignitatis plurimum conferetur*. For the ways in which the Roman Stoics promoted human society through their commitments to smaller *societates*, see Reydams-Schils (2005).

[91] For further discussion, see Graver (2002a: 77) and Chapter 7 by Graver in this volume.

gloria to indicate these different contexts. For example, in *De re publica* the characters alternatively use *gloria* and *honor* to indicate the preferred indifferent.[92] In *De re publica*'s concluding Dream of Scipio, we are told that the glory that attends the virtuous statesmen in heaven is 'true glory' (*vera gloria*), a glory that is distinct from the unstable vulgar glory offered to earthly leaders by the fickle crowds (*Rep.* 6.25 [6.29 Powell]). In *De officiis* Cicero similarly distinguishes between true glory bestowed on the virtuous by the virtuous and the ordinary glory given to politicians by the crowd (*Off.* 2.43).

Befitting his audience of aspiring statesmen within a republican form of government, in *De officiis* Cicero must address the common and politically necessary view that holds that honor, glory, and reputation are bestowed by the people (*Off.* 2.35). He does not dismiss the common notion that politicians receive glory from 'the many' but argues that the 'height and perfection' of such glory requires that the crowd 'loves' leaders, regards them as 'trustworthy', and considers them 'worthy of a certain honor with admiration' (*Off.* 2.31). Cicero argues that all three means to glory are secured by justice (*Off.* 2.38). Like wealth and other advantages, glory is a preferred indifferent (*Off.* 1.83, 2.42). As a preferred indifferent, glory has no value apart from its virtuous handling. Like other preferred indifferents such as wealth or property, one may pursue glory as long as one does so virtuously. At Cicero's discussion of wars of empire and glory at *Off.* 1.38, *gloria* and *honor* are both preferred indifferents, advantages which lose their value if those who seek them unjustly contravene the norms of warfare.[93]

When regulated by social virtue – especially justice – glory, honor, and reputation are real advantages. Because on the Stoic account justice is giving to each one's own,[94] to be deprived of the glory, honor, and reputation that is due to one is to suffer an injustice. When a *res publica* has suffered an injury that has diminished its honorable standing – an advantage no less than property or wealth – those representing its sovereign authority may as a matter of justice undertake steps to recover the honor properly due to it. A war for honor, glory, and worthy standing may be waged as a consequence of justice on the Stoic's own theory of justice. In fact, Cicero argues that 'we should be readier to fight when [the republic's] honor and glory is at stake than when other advantages are at stake' (*Off.* 1.83).[95]

[92] See Chapter 7 by Graver in this volume for references.

[93] Contrast Dyck (1996: 146); cf. A. A. Long (1995a: 233).

[94] Cf. Cic. *Leg.* 1.19. For the view that the wider argument of *De legibus* represents one Stoic strategy for arguing for justice and *De officiis* another, see Schofield (1995b).

[95] *promptiores igitur debemus esse ad nostra pericula quam ad communia, dimicareque paratius de honore et gloria quam de ceteris commodis.*

The general stance I am imputing to Cicero is consistent with how he generally handles glory throughout *De officiis*. Glory is an advantage that accompanies justice. For Cicero, following the Stoics, virtue pays and vice harms. Thus, in book 2 when Cicero turns his attention to what is advantageous, he focuses on justice as the surest way to acquire glory (*Off.* 2.38). On the other hand, the loss of glory can be a penalty for unjust behavior, and this penalty applies to polities no less than to individuals. A *res publica*'s honorable status can be lost if it behaves unjustly: Rome's unjust actions, Cicero warns, are causing it to lose both its republican form of government and its imperial glory (*Off.* 2.27–9). Cicero's overall strategy of handling glory in *De officiis* is to align glory and justice, much as I have argued he has done in his account of just war.

Admittedly, there is the occasional passage, especially in book 2, where Cicero speaks as if glory were a per se good, in apparent departure from Stoic orthodoxy.[96] Scholars have also suggested the Cicero's language about wars for glory at *Off.* 1.38 implies (even if he doesn't explicitly there endorse) such a view of glory.[97] It is worth briefly reflecting on these remaining tensions. One might well suppose that the tensions that come into Cicero's treatment of *gloria* in *De officiis* reflect a deeper tension attending the Stoic account of preferred indifferents, which on one hand should be pursued as choice-worthy but which, on the other hand, hold no value of their own, so that their loss would in no way impair the happiness of those who possess them. Cicero is aware of the criticisms of this Stoic doctrine, and in his earlier *De finibus*, he explores (in book 5) the extent to which virtue can be equated with happiness while still admitting the existence of a plurality of goods. Arguably Cicero's strongest criticism of Stoicism in *De finibus* is that by putting their terminology in esoteric and technical terms, the Stoics pay the exceedingly high price of rendering their philosophy distant from the common concerns and everyday language of human beings.[98] In *De officiis*, Cicero is writing precisely to future statesmen whose careers advance by their attention to common, everyday political concerns and values. Hence, Cicero's challenge in his handling of glory in *De officiis* is as much rhetorical as philosophical. The more his language about glory evinces a theoretical tightening, making it clear that glory never holds any

[96] On these passages and Cicero's overall handling of glory in *De officiis*, see A. A. Long (1995a).

[97] Dyck (1996: 146). In addition, one might think that while Cicero leads with the idea of restitution at *Off.* 1.38 by indicating that just causes must be present, the subsequent language of seeking honor and imperial glory implies not so much the restitution as augmentation of one's status, which in turn to Roman ears would suggest imperial expansion.

[98] On this aspect of *De finibus*, see Woolf (2022) and Woolf (2015).

per se value, the more likely it is to strike his readers as rigid, esoteric, and remote from their everyday vernacular.

Despite these formidable challenges that confront Cicero's project and tensions that remain within his work, the logic and language supporting Cicero's contention that a *res publica*'s honor and status might become matters of a just war were comprehensible to later thinkers, such as the eighteenth-century Swiss jurist Emmerich de Vattel. In his *On the Law of Nations* – a work featuring as an epigraph a passage from Cicero's Dream of Scipio – expressly defended this view:

> It is of great advantage to a nation and is one of its most important duties to itself to make itself renowned. True renown consists in the good opinion which wise and enlightened men have of us …. Since a nation's renown is a real advantage, it has the right to defend that renown as it would any other possession …. We cannot, therefore, condemn the measures sometimes taken by sovereigns to uphold or avenge the honor of their crown. They are both just and necessary … (1:191)

For de Vattel as for Cicero, a nation's renown or honor is a real benefit. Honor, honorable conduct, and the standing that accompanies it carry real advantages, and their loss, real disadvantages. For instance, nations who are perceived by the international community as dishonorably violating norms may face future diplomatic and strategic difficulties.[99] When a nation has suffered an injury that has diminished its honorable standing – an advantage no less than the material goods of property or wealth – those representing its sovereign authority – whether a monarch on de Vattel's example or magistrates in a republican context – may as a matter of justice undertake steps to recover the honor properly due to the nation.

8.5 Conclusion: The Relevance of Cicero's Theory

I hope by now to have shown that Cicero's just war theory is comprehensive, broadly coherent, and deeply integrated within the broader body of philosophy in which it is found. However, one might wonder whether my attempt to render Cicero's thought consistent through attention to its original historical, philosophical, legal, and ideological contexts comes at the cost of making his just war theory less relevant for contemporary

[99] This is a key claim of a theory of international relations known as constructivism, a theory to which Cicero's (and more broadly, Roman republicanism's) honor-based conception of 'international relations' bears some resemblance (J. W. Atkins, 2018: 191). Constructivists hold that behaviors of actors with a particular identity should be guided by norms consistent with that identity.

reflections on war. After all, unlike Cicero's eighteenth-century admirers such as de Vattel, most modern readers do not live in societies organized by the canons of nobility and honor.

In conclusion, I offer two reasons why I think Cicero's just war theory remains relevant for consideration by contemporary theorists. First, while Cicero's linking of just war theory and honor may feel very strange to readers within liberal democracies that no longer orient individual conduct around canons of nobility, it is ironically the presence of honor that may make Cicero's account most relevant to modern international relations theory. Scholars increasingly stress the important role that honor plays in international relations and thus point out the deficiencies of theories that ignore the important immaterial desire for standing and recognition.[100] Given this recent development in international relations, modern just war theorists have recognized that it is important to attempt to (re)integrate notions of honor and glory within contemporary accounts of just-war ethics.[101] The thought of the seventeenth-century Dutch jurist Grotius has been recruited in this contemporary project.[102] This chapter shows that Cicero's works may also be a welcome addition to such a project.

Cicero's *De re publica* and *De officiis* are relevant for contemporary just war thinking not primarily because of the importance of their reception by Grotius or because they provide a theory that we should directly adopt, but because they offer something in short supply in contemporary Western liberal democracies that do not typically acknowledge the importance of honor: An example of careful reflection about the rules of warfare and honor, glory, and status. Cicero, like Grotius, can help us see more clearly some possible implications for the integration of honor, reputation, and status with just war theory as we think through this matter for ourselves.

Second, Cicero's account of just war highlights an important virtue that the modern theory doesn't give enough attention: prudence. As we have seen in our discussion of dirty hands, promise-keeping, and proportionality, Cicero's account shows that the 'rules of war' are not mere formulae to be applied but require statesmen, as 'good calculators of their duties' (*Off.* 1.59), to carefully consider the internal principles of warfare in light of their larger contexts of reflection on justice and human society. The result of this flexible approach allows Cicero to align his action of justice within

[100] Lebow (2008), Dafoe, Renshon, and Huth (2014), and L. May (2007) (honor applied to contemporary just war theorizing).
[101] L. May (2007).
[102] L. May (2007). For Cicero's impact on Grotius, see Straumann (2015).

war with advantage or utility, thus meeting head-on the challenge of just war theories' most powerful adversary, a realism that contends that efforts to apply justice consistently to warfare leads to an unsatisfactory sacrifice of utility or advantage, given the fact that war involves necessity. Modern just war theorists such as Michael Walzer continue to confront the realist challenge with a flexible approach that is cognizant of necessity.[103] The difference between Walzer and Cicero is that the latter anchors prudence within a broader account of utility, human society, and the virtues that sustain it. For Cicero a just war requires statesmen to make judgments in light of proper understanding of justice, utility, and necessity. If Cicero is right, then modern statesmen and warriors, no less than the Roman hero Regulus, need prudence and the accompanying virtues of justice, courage, and moderation.[104]

[103] The first chapter of Michael Walzer's modern classic *Just and Unjust Wars* is called 'Against Realism'.

[104] This chapter has benefitted from comments from the conference participants on the paper originally delivered in Durham. In addition, I am grateful for written comments on an earlier draft by Nathan Gilbert, Margaret Graver, and an anonymous reader for Cambridge University Press. Their comments pushed me to clarify, nuance, and strengthen my arguments at numerous key points. The current chapter further develops and refines my discussion in J. W. Atkins (2018: 176–80). Some material in this chapter also appears in J. W. Atkins (2022).

CHAPTER 9

Towards a Definition of Sapientia
Philosophy in Cicero's Pro Marcello

Katharina Volk

Recent scholarship on Cicero has increasingly endeavored to bridge the boundaries between the various aspects of his career and writings, reading across his oeuvre to gain a more holistic view of a man who not only claimed expertise in many fields, but viewed his multiform activities as integral parts of one and the same public persona.[1] The study of Cicero's philosophy, too, has expanded to encompass not only the philosophical works themselves but also his other genres, considering philosophical elements in the poetry, letters, and speeches.[2] This broadening of the canon attests, on the one hand, to the wish to get a better understanding of the complex figure of Cicero and his philosophical ideas and, on the other, to the realization that the phenomenon of Roman philosophy was not restricted to the penning of philosophical works but encompassed a wide variety of intellectual habits, social practices, and speech acts.[3] It is in this spirit that my chapter will argue that in *Pro Marcello*, philosophy is central to Cicero's argument and rhetorical strategy: It is my hope to make a contribution to the interpretation of this controversial speech while also exploring the important role philosophy played, not only for Cicero himself, but in contemporary Roman social and political culture in general.[4]

[1] For this approach, see esp. Steel (2005).

[2] Poetry: Gee (2001); letters: after Boyancé (1936: 302–4) and Griffin (1995, 1997), see now McConnell (2014) and Gilbert (2015); speeches: Gildenhard (2011).

[3] See Volk (forthcoming 2023). A number of recent collections of essays attest to the growing interest in Roman philosophy in all its aspects: Volk and Williams (2016), Vesperini (2017), and G. M. Müller and Mariani Zini (2018); the earlier volumes of Griffin and Barnes (1989) and Barnes and Griffin (1997) remain fundamental.

[4] See further Volk (2021b), a monograph in which I endeavor to establish the close interconnection, in the lives of Cicero and his contemporaries, between scholarly, including philosophical, thought, and political action; *Pro Marcello* is discussed on pp. 139–46. There are a few verbatim repetitions between my two treatments, though on the whole the book is more concerned with contextualizing the speech in Cicero's situation in 46 BCE whereas this chapter focuses on the philosophical content. A further brief discussion of *Pro Marcello*, again with some verbal echoes, can be found in Volk (2021a).

Our *Pro Marcello* purports to be a speech delivered spontaneously by Cicero at a Senate meeting of autumn 46 in reaction to Caesar's unexpected announcement that he was going to pardon the exiled Pompeian M. Claudius Marcellus. Skepticism is in order as to whether our text faithfully represents this *ex tempore* performance: what we have is a polished version prepared for publication. As it happens, we have no information about the publication of the speech – Cicero's letters mention the delivery but not the subsequent circulation – but like most scholars, I am working on the assumption that *Pro Marcello* became available in written form shortly after the oral version was uttered.[5] What this means is that we have to reckon with a dual audience: Julius Caesar, addressed throughout the speech, and a larger readership, including members of Cicero's circle not necessarily well disposed toward the dictator.

The transmitted title of the speech is a misnomer: This is not a defense speech 'on behalf of' Marcellus but a highly unusual address in a highly unusual situation, that of a single man with unconstitutional powers showing his clemency to a nobleman who should by rights be his peer. All this takes place in the Senate, usually the locus of equitable aristocratic decision making but now the stage for the display of the royal virtue of *clementia*.[6] Marcellus, member of an illustrious family of arrogant *nobiles*, had fiercely opposed Caesar during his consulship in 51 and supported Pompey in the civil war. After Pharsalus, he had retreated into voluntary exile at Mytilene and, to judge from his correspondence with Cicero (*Fam.* 4.7–11 = 229–33 SB), showed little interest in returning to Rome. Nevertheless, his kinsmen incessantly petitioned Caesar on his behalf, and though the dictator was reluctant, he finally let himself be swayed by the outpouring of senatorial support for Marcellus at the Senate meeting in question, announcing his decision to pardon his former foe.

It is perfectly possible that Caesar's change of mind was not in fact spontaneous but a carefully scripted performance, but Cicero, at any rate, was surprised and pleasantly so: In a letter to Sulpicius Rufus, he states that the day of Marcellus's pardon 'seemed to [him] so beautiful that [he]

[5] Dissenting from the *communis opinio*, Dyer (1990) and Gagliardi (1997: 93–178) place the publication only after Marcellus's death in 45.

[6] I disagree with the assertion of Konstan (2005) that at this time, *clementia* was considered an unproblematically positive character trait rather than a 'royal virtue' shown by a superior to an inferior. Konstan's argument founders on his seeing the matter in black and white: Caesar's contemporaries need not have read his *clementia* as either a 'wholly positive quality' (340) or a 'despotic disdain for one's ostensible peers' (344). A royal virtue is still a virtue; it is its royal character that renders it problematic in a Republican setting.

appeared to see some appearance, so to speak, of the reviving *res publica*'.[7] As a result, Cicero on the spot changed his policy of not speaking in public, to which he had adhered since his return from the civil war out of a sense, as he put it, of *dignitas*.[8] *Pro Marcello* was his first speech under Caesar, and as such must have been highly welcome to the dictator, who was trying to reconcile pardoned ex-Pompeians to his new regime.

Cicero's speech is an unusual one given in unusual circumstances, and it also has an unusual structure. *Pro Marcello* falls into two parts, the first a *gratiarum actio*,[9] where Cicero expresses his thanks to Caesar, extolling his achievements in general and his pardoning of Marcellus in particular (*Marcell.* 1–20), and the second a *suasoria*, in which the speaker exhorts Caesar to continue his efforts on behalf of the commonwealth and ultimately restore the Republic (*Marcell.* 21–32, followed by a brief peroration in 33–4). Cicero's purpose in *Pro Marcello* has been hotly debated since antiquity: While some readers have been horrified at Cicero's bootlicking servility toward Caesar, others have suggested that the speech is actually subversive, with the speaker covertly criticizing the dictator or even hinting at resistance against him.[10] Already the late antique *scholia Gronoviana* report as a widespread interpretation the view that *Pro Marcello* is an *oratio figurata*, a deceptive or purposely misleading speech (295.32–3 Stangl):[11]

> Most [commentators] think this is a deceptive speech and explain it thus, as though it contained more blame than praise.[12]

The scholiast himself, however, does not hold with this view: Double-speak would defeat the purpose, and Caesar is hardly the man to let himself be deceived.[13]

[7] *Fam.* 4.4.3 = 203 SB: *ita mihi pulcher hic dies visus est ut speciem aliquam viderer videre quasi reviviscentis rei publicae*. As Cicero's letters show, he himself had been tirelessly advocating on behalf of disgraced former Pompeians such as Marcellus, as well as attempting to provide them with epistolary consolation (for his correspondence with Marcellus himself, see *Fam.* 4.7–11 = 229–33 SB). See further Volk (2021b: 112–25).

[8] *Fam.* 4.4.4 = 203 SB: *statueram non mehercule inertia, sed desiderio pristinae dignitatis in perpetuum tacere*. In *Pro Marcello*, speaking to Caesar himself, Cicero more diplomatically ascribes his decision to *dolor* and *verecundia* (*Marcell.* 1).

[9] This is the *status* of the speech according to *Scholia Gronoviana* 295.24 Stangl.

[10] See Dugan (2013b) for a *historia quaestionis* and exploration of the issues involved. Among scholarly discussions of the speech, note esp. Rambaud (1984), Dobesch (1985), Rochlitz (1993: 74–115), Tedeschi (1996, 2005), Kerkhecker (2002), Winterbottom (2002), von Albrecht (2003: 163–74), Krostenko (2005), Gildenhard (2011: 225–33 and 361–4), Tempest (2013a, 2013b), and Scatolin (2018).

[11] Modern readings along those lines are found in Dyer (1990) and Gagliardi (1997: 93–178).

[12] *plerique putant figuratam esse istam orationem et sic exponunt, quasi plus vituperationis habeat quam laudis.*

[13] 295.33–296.2 Stangl: *hoc nec temporibus convenit nec Caesari. nam et tempus tale est ut vera laude Caesar inducatur ad clementiam, et Caesar orator est qui non possit falli.*

I am with the scholiast: In my opinion, the speech is sincere. This does not mean that Cicero himself is convinced of, or committed to, the truth of every single thing he says; this is an elaborate piece of oratory, after all, and exaggerations, embellishments, tropes, and figures abound. What I mean by sincerity is that the speech is about what it purports to be about, and not about a hidden agenda. What is more, I believe that it works because, and only if, Caesar is undeceived and understands what Cicero is up to. And this is where philosophy comes in.

Let us consider briefly the biographical and intellectual backdrop of *Pro Marcello*. Over the course of the year 46, philosophy was playing an increasingly important role for Cicero. As he and other ex-Pompeians were trying to pick up the pieces of their lives, they were, among other things, turning to philosophy as a consolation, something that can be traced in many letters from this period.[14] Some of the same men were also beginning to write philosophy. In his *De virtute* of late 47, a work dedicated to Cicero, Brutus had used none other than Marcellus as an example of the self-sufficiency of virtue, being impressed with the man's serene acceptance of his exile.[15] Cicero himself embarked on a writing spree starting in the spring of 46, penning not only such rhetorical works as the *Brutus* and *Orator*, but also the *Paradoxa Stoicorum* and his *Cato*, which must have touched on the subject's Stoicism. It is quite possible that by the time of *Pro Marcello*, Cicero was already pondering his great philosophical corpus and had begun working on the *Hortensius*. Of course, many other senators and crucially Caesar himself had philosophical knowledge and interests, with the result that philosophically flavored vocabulary and arguments would have been noticed and appreciated. One might even argue that to learned senators on both sides of the aisle, philosophy offered an attractive and non-confrontational way of speaking of topics that might have been painful and controversial if debated in another fashion.[16]

Just to be clear: I am not claiming that *Pro Marcello* presents a technical philosophical argument. As we will see, the speech contains a certain amount of language that has philosophical connotations but is not exclusively philosophical: Thus one could always maintain, for example, that *virtus* is just a traditional Roman ideal of manly excellence. However, I believe that this kind of narrow approach would lose out on the richness

[14] See my discussion in Volk (2021b: 112–25).

[15] Sen. *Helv*. 9.4 and 6 = Brutus fr. 2 Garbarino.

[16] As Nathan Gilbert points out to me, the role of philosophy in *Pro Marcello* is thus fundamentally different from its invective use in such earlier speeches as *Pro Murena*, *In Pisonem*, and *In Vatinium*, where Cicero mocks and/or vilifies his opponents for their philosophical affiliations.

of the speech, and that it is the very compatibility of philosophical and aristocratic values – or Cicero's insinuation that there is such a compatibility – that makes *Pro Marcello* so powerful.

As has often been remarked, wisdom is a leitmotif of the speech, and Caesar in particular is called *sapiens* or associated with *sapientia* nine times in what at 34 paragraphs is a fairly short text.[17] I suggest that the basic argument that underlies *Pro Marcello*, without ever being made explicit, is the following syllogism, or rather enthymeme:

A. The wise man will act virtuously.
B. Caesar is a wise man.
→ C. Therefore, Caesar will act virtuously.

The major premise A is never stated or argued for in the course of the speech: It is simply assumed as something that any person with even the vaguest philosophical education will agree on. After all, the wise man by definition is the person who acts virtuously – though as we will see, Cicero will offer some clarification as to what both *sapientia* and virtuous action consist in. The minor premise B – that Caesar is *sapiens* – is established in the first part of the speech, the thanksgiving of sections 2–19. Once both premises stand, all the speaker needs to do is pull out of his hat the conclusion, which Cicero does in Part II, sections 20–32, his exhortation to the dictator. The elegance and inexorability of the syllogism put Caesar into a bind: Once he has been shown to be *sapiens*, he really has no choice – thus Cicero – but to exercise the virtue that is his own. Let us take a look at how this 'entrapment by philosophy' plays itself out in the course of the speech.[18]

According to Cicero, Caesar's *sapientia* has manifested itself in many ways but in none more so than in his decision to pardon Marcellus. In fact, it is this 'mildness, unusual and unheard-of mercy, moderation while holding the greatest power, and unbelievable and nearly divine wisdom' (*Marcell.* 1)[19] on the part of Caesar that has inspired Cicero spontaneously to break his self-enforced public silence and deliver the speech. In what follows, he goes on to refine his analysis of Caesar's wisdom by stressing his addressee's autonomy, his self-control, his reason and judgment, and his

[17] *Marcell.* 1, 7, 9, 18, 19 (2x), and 25 (3x). On *sapientia* in the speech, see Rochlitz (1993: esp. 111–15).
[18] A different but, I believe, compatible interpretation of the speech is found in Cole (2013: 112–26), who focuses on Cicero's depiction of Caesar as a quasi-god, likewise stressing that this praise is ultimately employed to oblige Caesar. See also Levene (1997: 68–77) and Gildenhard (2011: 361–74).
[19] *tantam enim mansuetudinem, tam inusitatam inauditamque clementiam, tantum in summa potestate rerum omnium modum, tam denique incredibilem sapientiam ac paene divinam.*

endowment with other virtues. This is not done in some systematic way, but in the course of the highly flattering praise Cicero lavishes on his subject in the first part of his speech. Thus, Cicero makes the point that while Caesar's military achievements are rightly admired, such victories are the result of the shared effort of many people and ultimately subject to chance or *Fortuna*. An action like the pardoning of Marcellus, by contrast, is truly Caesar's own (*Marcell.* 7):

> But in this glory, which you have right now achieved, you have no shareholder: however great it is – and it certainly is the greatest – it is, I say, all your own. In this fame, no centurion, prefect, cohort, or troops have a part. Not even that mistress of human affairs, Fortune, attempts to share this glory with you: she yields to you, she says it is all properly your own. For randomness and wisdom are never joined together, and chance has no power over judgment.[20]

In extending his *clementia* not only to Marcellus but also other former foes, Caesar is exercising his own judgment as a fully autonomous moral agent. Doing so requires overcoming and controlling his own passions, including his anger at the men who had opposed him and perhaps were still doing so (and apparently Caesar in his own speech, in which he announced his pardon, had not only complained about Marcellus's past hostility but also hinted at continuing threats to his own life). According to Cicero, Caesar in exercising his *clementia* has conquered not only his own spirit and anger (*Marcell.* 8)[21] but, as it were, even victory itself (*Marcell.* 12).[22]

As is apparent from the passages discussed, Caesar is endowed, as any *sapiens* should be, with the cardinal virtues temperance, justice, and prudence.[23] We are not explicitly told about Caesar's courage, but in a man of incredible military achievements, Cicero must be taking this for granted. The upshot is that Caesar is in a position to rest secure in the enjoyment

[20] *at vero huius gloriae, C. Caesar, quam es paulo ante adeptus socium habes neminem: totum hoc quantumcumque est, quod certe maximum est, totum est, inquam, tuum. nihil sibi ex ista laude centurio, nihil praefectus, nihil cohors, nihil turma decerpit; quin etiam illa ipsa rerum humanarum domina, Fortuna, in istius se societatem gloriae non offert: tibi cedit, tuam esse totam et propriam fatetur. numquam enim temeritas cum sapientia commiscetur nec ad consilium casus admittitur.*

[21] *animum vincere, iracundiam cohibere, victo temperare, adversarium nobilitate, ingenio, virtute praestantem non modo extollere iacentem sed etiam amplificare eius pristinam dignitatem, haec qui faciat, non ego eum cum summis viris comparo, sed simillimum deo iudico* ('Conquering one's spirit, restraining one's anger, being moderate towards the vanquished, and not only lifting up, when he is down, an enemy of outstanding nobility, talent, and virtue but even to enhance his former standing – the one who does this I no longer compare with the greatest men but judge to be most similar to a god').

[22] *hodierno vero die te ipsum vicisti … ipsam victoriam vicisse videris.*

[23] See also *Marcell.* 9: *aliquid clementer, mansuete, iuste, moderate, sapienter factum* ('something done with mercy, mildness, justice, moderation, and wisdom').

of not only his success and good luck, but crucially also his wisdom and virtue. As Cicero sums up (*Marcell.* 19):

> Thus rejoice in your great boon, and enjoy not only your fortune and glory but also your nature and character: for this gives the greatest enjoyment and delight to the wise man. When you remember your other deeds, you can often congratulate yourself on your virtue but most of the time just on your luck. But whenever you think of us, whom you have wanted to be in the commonwealth together with you, then you can think of your own greatest benefactions, your unbelievable generosity, your singular wisdom – which I will dare to pronounce not only the greatest but even the only good. For there is such glory in true praise, such dignity in greatness of mind and judgment, that they seem to be the gifts of virtue, while everything else has been assigned by Fortune.[24]

Here we find again our leitmotifs of autonomous – that is, not Fortune-dependent – *sapientia* and of *virtus*, things that are now explicitly called the greatest and only good. Caesar has achieved the *summum bonum* – which means that, according to Cicero, he has his work cut out for him.

Before moving on to the second part of the speech and the conclusion of my syllogism, two observations. First, it should have become clear that the view of *sapientia* that Cicero pushes, while clearly philosophically informed, is not one that can be ascribed exclusively to one particular school. That the wise man is rational, self-sufficient, not subject to fortune, and – as a corollary of his wisdom – endowed with all the other virtues as well, is something that any philosophically informed person of the period would have agreed on, never mind their school affiliation. As we will see, however, in the remainder of the speech, Cicero will begin to hint at doctrinal differences among philosophical schools and argue in favor of one view against another.

Second, as has often been observed,[25] *Pro Marcello* in its combination of ruler praise and exhortation shows affinities to a genre that was going to hit its stride only in later periods but that has predecessors already in Hellenistic times. The so-called *Mirror of Princes* works by showing a ruler a flattering image of his supposed virtues, which is used in turn to oblige

[24] *qua re gaude tuo isto tam excellenti bono et fruere cum fortuna et gloria tum etiam natura et moribus tuis: ex quo quidem maximus est fructus iucunditasque sapienti. cetera cum tua recordabere, etsi persaepe virtuti, tamen plerumque felicitati tuae gratulabere: de nobis, quos in re publica tecum simul esse voluisti, quotiens cogitabis, totiens de maximis tuis beneficiis, totiens de incredibili liberalitate, totiens de singulari sapientia tua cogitabis: quae non modo summa bona sed nimirum audebo vel sola dicere. tantus est enim splendor in laude vera, tanta in magnitudine animi et consili dignitas ut haec a virtute donata, cetera a Fortuna commodata esse videantur.*

[25] See esp. Rochlitz (1993: 79–115) and compare Tempest (2013b).

him to live up to these virtues in his future conduct. It makes sense to view *Pro Marcello* as belonging to this tradition but this in no way impinges on my philosophical reading. As a matter of fact, a *Mirror of Princes* is often philosophically informed – it is about the virtue of the ruler, after all – and the genre itself may be viewed as a subgenre of philosophical writing.[26]

To return to the speech, it is Part II that contains the crucial argument. After it has been established that Caesar is *sapiens* (the minor premise), and with the major premise (that the wise man will act virtuously) implied, the conclusion – that Caesar will act virtuously – should be a cinch. However, what exactly would it mean for Caesar to do so?

In general terms, Cicero proposes a return to the law, order, and morality that characterize a society at peace (*Marcell.* 23):

> You alone, C. Caesar, must raise up what you see prostrate, struck down and collapsed through the onslaught of war, as had to happen: set up trial courts, renew faith, curb excesses, see to the propagation of offspring, bind together with strict laws what has collapsed and fallen apart.[27]

Such a program would seem comparatively uncontroversial, but of course the orator intends rather more, as he clarifies soon thereafter: *in hoc elaborandum est ut rem publicam constituas* ('to this you must devote your effort: re-establish the *res publica*', *Marcell.* 27). Cicero, and no doubt many of his friends, would like to see a return to the established shape and form of Republican government, with orderly elections to office and policy as formerly determined by the Senate. The million sesterces question, however, is whether Caesar is going to do it.

In 46, with civil war still going on, it was entirely unclear how Caesar would proceed with the unconstitutional power that he had won for himself, and unlike in the following year, when after his victory at Munda the dictator's actions were becoming increasingly autocratic, there was still enough of a hope that he would ultimately allow the political situation to return to the Republican normal. Indeed, the very pardoning of Marcellus raised the hope that the *res publica* might, as Cicero put it in the letter to Sulpicius Rufus, be on the brink of a revival. Then again, what if this was not what Caesar had in mind?

In his speech, Cicero must address this issue but of course avoid any implication that Caesar might be motivated by any disreputable

[26] Compare Seneca's *De clementia*, our first proper example of the genre.

[27] *omnia sunt excitanda tibi, C. Caesar, uni quae iacere sentis belli ipsius impetu, quod necesse fuit, perculsa atque prostrata: constituenda iudicia, revocanda fides, comprimendae libidines, propaganda suboles, omnia quae dilapsa iam diffluxerunt severis legibus vincienda sunt.*

considerations such as – god forbid – self-interest, hunger for power, or disdain for senatorial politics. After all, the man has been shown to be *sapiens* – and *sapiens* is as *sapiens* does. So if there is any reason for doubt that Caesar will do the right thing and re-establish the *res publica*, then this can be so only because there is a disagreement – a *philosophical* disagreement – over what the right thing to do for the wise man actually is. And according to Cicero's analysis in *Pro Marcello*, this is exactly where the issue lies.

In his own speech in the Senate, Caesar, as I have already mentioned, not only declared his intention of pardoning Marcellus but also painted an image of himself as a victim, not just of Marcellus's harsh attacks in the past but also of assassination threats in the present – no doubt in order to highlight his own magnanimity (cf. *Marcell.* 3, 21). Expressing a resigned, if not jaded, attitude to the possibility of his own demise, he even asserted that he had 'lived long enough for either nature or glory' (*satis diu vel naturae vixi vel gloriae*, *Marcell.* 25).[28] Cicero pounces on this statement, labeling it a *sapientissima vox* (*Marcell.* 25): After all, contempt for death is the reasoned attitude of learned men and, as such, might be considered *sapiens*. Not in Cicero's book, however: that kind of 'wisdom' is no good for the *res publica*, and Caesar ought to drop it (*Marcell.* 25):

> Therefore please give up the prudence displayed by learned men in despising death: don't be wise at our risk.[29]

Cicero is playing with the concept of *sapientia*: Caesar's attitude is 'wise' in the sense that it is philosophically informed, but it is not wise in the true meaning of the word.

What is the philosophical stance that Cicero detects in Caesar's words? While contempt for death is an attitude shared by all philosophies, the idea of having lived 'enough' from the point of view of nature would seem to be particularly Epicurean. The Epicureans held that perfect pleasure cannot be increased by the duration of time and that one might as well quit while the going is good and one has had 'enough' of good things (compare Caesar's *satis*). Thus in her diatribe at the end of Lucretius's *De rerum natura* 3, personified *Natura* tells the man unwilling to die that

[28] Later in the same paragraph, Cicero mentions reports that Caesar has in fact been in the habit of stating (*nimis crebro dicere*) that he has 'lived enough for *himself*' (*satis te tibi vixisse*). Note the telling variation; in the remainder of the speech, Cicero is mostly working with the longer version. On Caesar's *satis vixi*, see Narducci (1983), who also shows how Cicero in later works adapts the phrase for himself (*Fam.* 10.1.1 = 340 SB and *Phil.* 1.38). On Cicero's argument in *Pro Marcello* 25–7, see Tedeschi (1996).

[29] *qua re omitte istam, quaeso, doctorum hominum in contemnenda morte prudentiam: noli nostro periculo esse sapiens.*

'there is nothing that I could additionally contrive and invent to please you: everything is always the same' and that he ought to leave life when 'sated (*satur*) and full of things'.[30] Of course, a true Epicurean has no desire for glory, but Cicero himself points out that this part of Caesar's utterance is heterodox and not part of his Epicurean *sapientia:* 'You will not deny that *even though* you are wise, you are most desirous of fame' (*Marcell.* 25).[31]

From Cicero's perspective, of course, Caesar's view is completely wrong (*Marcell.* 25):

> [You have lived] perhaps enough for nature, if you think so, or even, if that's your opinion, for glory: but not enough for the fatherland, which is the most important thing.[32]

It is fundamentally mistaken to set one's course of life by the criterion of one's own mental contentment rather than that of public welfare (*Marcell.* 25).[33] Arguing, as he so often does in his philosophical works, against Epicurean individualism and retreat from politics,[34] Cicero exalts service to the *res publica* as the highest calling of man in general and Caesar in particular: The virtuous action to which the *sapiens* is by definition obliged is political action and, in the opinion of Cicero, the specific action of restoring the Republic.

To convince Caesar of this, the orator fastens on the one point where this supposed Epicurean departs from his school's doctrine: his undeniable desire for glory. According to Cicero, truly immortal glory can be achieved only through political engagement: If Caesar quits now, he will lose his chance of leaving behind a lasting legacy.[35] Pleasure, even the memory of past pleasure, by which the Epicureans set so much store, will end with death (*Marcell.* 27).[36] This, of course, comes as no shock to a true Epicurean but is bad news to a Caesar, the kind of person 'who has never

[30] Lucr. *DRN* 3.944–5: *nam tibi praeterea quod machiner inveniamque/quod placeat, nil est: eadem sunt omnia semper*; 3.960: *satur ac plenus … discedere rerum.*

[31] *cuius* [sc. *gloriae*] *te esse avidissimum, quamvis sis sapiens, non negabis.*

[32] *satis, si ita vis, fortasse naturae, addam etiam, si placet, gloriae: at, quod maximum est, patriae certe parum.*

[33] *hic tu modum vitae tuae non salute rei publicae sed aequitate animi definies?*

[34] See esp. *Rep.* 1.1–13.

[35] Scatolin (2018) shows that Cicero in the *Philippics* uses similar arguments from 'true glory' when attempting to influence Antony and Octavian and connects this rhetorical strategy to Cicero's philosophical theorizing about the nature of glory in *De officiis* and the lost *De gloria*. On the politics of *De officiis*, see A. A. Long (1995a); for more on 'true' glory, see Chapter 7 by Graver in this volume.

[36] *quod cum venit, omnis voluptas praeterita pro nihilo est, quia postea nulla est futura* ('when it [death] comes, all past pleasure counts for nothing, because there will no longer exist any').

been content with the narrow confines that nature gave to our lives and has always burned with love for immortality' (*Marcell.* 27).[37] Since only true glory lives on,[38] there is therefore but one course possible for Caesar, provided that he is truly *sapiens*, not just imbued with Epicurean pseudo-wisdom (*Marcell.* 27):

> This part is left for you, this deed remains, to this you must devote your effort: re-establish the *res publica*, and you first and foremost will be able to profit from it in the greatest tranquility and leisure. At that point, once you have paid your debt to the fatherland, and – sated with life – have satisfied nature, you may, if you wish, say that you have lived long enough.[39]

Using Epicurean language, Cicero makes the highly un-Epicurean point that in order to enjoy *tranquillitas*, that is, *ataraxia*, and be able to say truly that he has lived 'enough' and achieved real *satietas vivendi*, Caesar needs to do his job as a *sapiens* and put the *res publica* back on track.[40] QED.

But was Caesar in fact an Epicurean? That would be another paper.[41] Very briefly: No, there is no evidence that Caesar was a committed Epicurean the way, say, Cassius or Piso were, or the way Cato was a Stoic and Cicero an Academic Skeptic. There are, however, a number of sources (including prominently *Pro Marcello*) for utterances on the part of Caesar that show an attitude specifically to death that might be taken as Epicurean-inflected. The best-known is Caesar's argument in his 63 BCE speech about what to do with the convicted Catilinarians, namely that death is not an evil and hence not a punishment.[42] Furthermore, a number of sources report that in the last years of his life, Caesar expressed a certain world-weariness and readiness for death (cf. *satis vixi*).[43] As James Warren

[37] *iste tuus animus numquam his angustiis quas natura nobis ad vivendum dedit contentus fuit, semper immortalitatis amore flagravit.*

[38] Here, Cicero must hasten to forestall the Epicurean counter-argument that the dead man will not be affected by his continuing glory: '*even if* this will not then concern you, *as some people wrongly believe*, now certainly it is a concern for you to be the kind of person whose praise will never be obscured by oblivion' (*id autem etiam si tum ad te, ut quidam falso putant, non pertinebit, nunc certe pertinet esse te talem ut tuas laudes obscuratura nulla umquam sit oblivio*).

[39] *haec igitur tibi reliqua pars est; hic restat actus, in hoc elaborandum est ut rem publicam constituas, eaque tu in primis summa tranquillitate et otio perfruare: tum te, si voles, cum et patriae quod debes solveris et naturam ipsam expleveris satietate vivendi, satis diu vixisse dicito.*

[40] As Bob Cowan points out to me, Cicero's Caesar is an Epicurean in an unusual situation: all members of the Garden want to profit from a well-established *res publica* in their pursuit of *tranquillitas*; it is only Caesar who has the power – and hence duty – to ensure that the commonwealth is in such a state as to enable its citizens' hedonism.

[41] I have written such a paper (Volk, 2021a), where the interested reader can find a detailed discussion of this question, with ample references.

[42] Sall. *B. Civ.* 51.20, 52.13; Cic. *Cat.* 4.7–8.

[43] Suet. *Iul.* 86; Vell. 2.57.1; Plut. *Caes.* 57.7; App. *BC* 2.109.

and others have shown, Epicureanism's insistence that death is nothing to us, and that it makes no difference whatsoever when one quits life, implies a certain 'small' or minimalist view of the value of life itself.[44] It seems to me plausible that this is a view that the jaded rationalist Caesar found appealing, without buying further into the intricacies of Epicurean doctrine. Whether this is the case or not, however, what matters for my argument here is simply that Cicero in his speech *decided* to treat Caesar's *satis vixi* as an Epicurean statement, something that allowed him to construct his political disagreement with the dictator as a philosophical argument.

The entire *Pro Marcello* is, of course, addressed to Caesar, but it is in the rebuttal of his statement about life and death that Cicero most actively engages his addressee, involving him, as it were, in a philosophical give-and-take.[45] Caesar's phrase is quoted, dissected, and proved wrong; staccato rhetorical questions are employed to overwhelm the interlocutor; and Caesar's imagined objections are immediately rebutted. Cicero addresses the dictator in the language of philosophical discourse, speaking as one learned senator to another, despite the obvious power differential. Making Marcellus's pardon a matter of *sapientia*, the orator attempts to resolve some of the ambiguities inherent in his own situation (How to praise Caesar without endangering his own *dignitas*? How to advise him without incurring offense?) and to find a way of clearly expressing his views in a language that his addressee might find appealing. Even if Caesar did not follow Cicero's advice – and, of course, he did not – he could relish the speech for both its laudatory and its intellectual qualities; Cicero's opinion about the state of the *res publica* was, at any rate, hardly unknown or shocking to Caesar, and the very fact that the consular (one of few alive) had broken his silence in the Senate may have been the aspect of *Pro Marcello* most gratifying to the dictator.

If the speech was thus a success as social performance but a failure as political persuasion, it is also evidence of the new uses to which philosophy was increasingly put in the crisis of the late Republic. The civil war, Caesar's dictatorship, and his subsequent assassination were important catalysts in the Roman elite adaptation of Greek thought to their intellectual, emotional, and societal needs and provided significant inspiration for their own philosophical productions. In the intellectual history of Rome in general and Cicero in particular, this was something like the perfect storm: As the results of decades of increasingly more sophisticated philosophical

[44] See Warren (2004).
[45] Compare Rambaud (1984).

training converged with a more and more self-confident linguistic and literary ambition, and Romans began to write their own philosophy, *at this very moment* an acute political crisis put the Roman philosophical enterprise on an entirely new footing, as the affected upper class looked to their Greek learning for explanation, solution, consolation, and new modes of discourse in their specifically Roman situation. Cicero never again publicly engaged Caesar in a debate on the definition of *sapientia*. Instead, he penned a philosophical corpus that shaped European thinking for centuries. From the fall of the Republic, Roman philosophy was born.[46]

[46] My thanks go to Margaret Graver, Nathan Gilbert, and Sean McConnell for inviting me to speak at the Durham conference and contribute to this volume, as well as to my fellow speakers and the members of the audience for their questions and comments. The chapter retains some of the stylistic features of the original oral presentation. I am grateful, as always, to Jim Zetzel for his help and support at all stages of this project.

CHAPTER 10

Old Men in Cicero's Political Philosophy

Sean McConnell

The detailed accounts of the best constitution and the ideal statesman in *De re publica* do not obviously dwell on the topic of old age, and the chief preoccupation of much of Cicero's political philosophy in the 50s is to promote the political power and authority of 'the best men', the *optimi* or *optimates*.[1] But by the 40s the political landscape at Rome had changed drastically. In this chapter I make the case that in *De senectute*, completed in early 44,[2] Cicero revisits some of the key elements of his political thinking of the 50s and develops a new model that promotes the political power and authority of 'old men' (*senes*). Through the mouthpiece of Cato the Elder, Cicero puts forward the view that the distinctive group of 'the old' should play the roles of the *optimi* that are set out in *De re publica* – and, most importantly, in *De senectute* he points to certain unique advantages that 'the old' possess to play these roles effectively. This substitution of *senes* in place of the *optimi* shows Cicero's adaptation of a particular persuasive strategy given the changed political context and his own advancing years, while also reaffirming his fundamental commitment to the republican constitutional models put forward in the earlier *De re publica*. It can also readily be seen as a collective call to arms to men of his generation in 44 BCE.

In the first section I compare *De re publica* and *De senectute* by assessing the ways in which the Roman constitution is compared with that of Sparta in both works. I show how Cicero's commitment to the primacy

[1] Cicero's *De re publica* was composed in 54–51 and, according to Caelius Rufus, 'all the rage' in May 51 (*tui politici libri omnibus vigent*, *Fam.* 8.1.4 = 77 SB). The two other most important texts from the 50s are the speech *Pro Sestio*, delivered in 56, and the dialogue *De legibus*, which may not have been completed (see further Chapter 2 by Zetzel in this volume). Another term that Cicero commonly uses in these works to describe the *optimi* is *principes* ('the leading men').

[2] There is some uncertainty about the precise date of *De senectute*. Powell (1988: 267–8) judiciously weighs the available evidence and concludes that it was most likely composed in the months before Caesar's assassination in March 44. It certainly predates *De divinatione*, which was completed after the Ides of March, as the dialogue appears in the list of Cicero's philosophical works (*Div.* 2.3).

of the Senate remains constant, while at the same time there is a new emphasis on the political role of old men within that context. The second section focuses on the preface to *De senectute* and the ways in which Cicero links the dialogue intertextually with *De re publica* and, in a similar fashion, orientates it around sensitive and pressing political concerns at Rome. The third section presents the full details of Cicero's philosophical thinking regarding the political role of old men. Here I show that Cicero develops a detailed and coherent model that is not just a conservative restatement of traditional Roman republican ideals and social norms (although they are certainly important factors): in a similar vein to what we see in *De re publica*, in *De senectute* Cicero draws on some of the most important arguments in Plato's *Republic* when advocating for the special political role of 'the old'. In the final section I suggest that Cicero's model in *De senectute* can also be seen as offering a challenge to 'old men' of his generation to act to restore the proper republican model of senatorial politics, something that Cicero himself attempted over the dramatic final months of his life.[3]

10.1 Rome and Sparta in *De re publica* and *De senectute*

In the second book of Cicero's *De re publica*, in the course of recounting the origins and development to its ideal state of the mixed constitution of the Roman *res publica*, the character Scipio twice compares the Roman Senate to the Spartan γερουσία or 'council of old men' (*Rep.* 2.15, 2.50):[4]

> After he [Tatius] was killed, Romulus ruled with even more reliance on the authority and judgment of the Fathers. In doing this he first recognised and approved the same policy that Lycurgus at Sparta had recognised slightly earlier, that states are guided and ruled better under the sole power of a king if the authority of 'the best men' (*optimi*) is added to the monarch's absolute rule; and so, relying on the support of this quasi-senatorial council, he waged many wars against his neighbours with great success and continually

[3] I use Powell's 2006 text of Cicero's *De re publica* and *De senectute*. Unless otherwise indicated, all translations are my own.

[4] The same comparison appears in Dionysius of Halicarnassus, *Ant. Rom.* 2.14.2 and Plutarch, *An seni* 789e. See also Polybius 6.9.10–10.14. For other Spartan parallels in *De re publica*, see *Rep.* 2.42–3 (Rome and Sparta have mixed constitutions that blend three components) and *Rep.* 2.58 (the ephors compared with the tribunes of the plebs).

> enriched his citizens while taking for himself nothing of the plunder. (trans. Zetzel, slightly adapted)[5]

> … he [Lycurgus] called <elders> at Sparta; they were too few, only twenty-eight, whom he wanted to serve as the highest council, while the king kept the executive power. Following his example, our people had the same purpose; they translated his terms, and called 'senate' the men he had called 'elders', just as we said that in selecting the 'Fathers' Romulus had done the same thing. Even so, the force, power, and name of king stands out and dominates. (trans. Zetzel, slightly adapted)[6]

Scipio reports that Romulus followed the example of Lycurgus and the Spartans[7] and gave 'the best men' (*optimi*) precedence in *consilium* ('advice', 'direction', 'counsel'),[8] but not in *imperium* ('executive power', 'military command'), which was in the sole hands of the king (*Rep.* 2.15).[9] The *consilium* was at first provided by a select group, the *optimates* ('aristocrats'), constituted as something like the Senate (*Rep.* 2.23).[10] In the early stages of the Roman *res publica* these *optimates* were the noble patricians (*Rep.* 2.23). However, as Scipio intimates in the first book when presenting arguments in favour of aristocracy (*Rep.* 1.50), membership of the *optimates* should not

[5] *tamen eo interfecto multo etiam magis Romulus patrum auctoritate consilioque regnavit. quo facto primum vidit iudicavitque idem, quod Spartae Lycurgus paulo ante viderat, singulari imperio et potestate regia tum melius gubernari et regi civitates, si esset optimi cuiusque ad illam vim dominationis adiuncta auctoritas. itaque hoc consilio et quasi senatu fultus et munitus et bella cum finitimis felicissime multa gessit et, cum ipse nihil ex praeda domum suam reportaret, locupletare civis non destitit.*

[6] ** * * [La]cedaemone appellavit, nimis is quidem paucos, octo et viginti, quos penes summam consilii voluit esse, cum imperii summam rex teneret; ex quo nostri idem illud secuti atque interpretati, quos senes ille appellavit, nominaverunt senatum, ut etiam Romulum patribus lectis fecisse diximus: tamen excellit atque eminet vis, potestas nomenque regium.*

[7] That the early Romans were directly influenced by the Spartan lawgiver Lycurgus is of course historically questionable. It is important to note that Scipio's account is not intended to be a strict positivist history of what actually took place, but rather the mature Roman *res publica* serves as a model of the ideal constitution (*Rep.* 1.70, 2.55, 2.64–6). See Fox (2007: 80–110), who stresses the idealisation of Roman history in the service of illustrating the characteristics of the ideal constitution, and Asmis (2014), who argues that Scipio's supposedly historical account of the development of the Roman republican constitution is in fact a foundation myth of Cicero's own creation. For further critical discussion of Cicero's treatment of Roman history in *De re publica*, see Hathaway (1968), Rawson (1972: 35–7), Ferrary (1984), Cornell (2001), and Asmis (2005).

[8] The term *consilium* captures a range of reflective, consultative, and advisory activities, as well as indicating an advisory body. In the first book of *De re publica* (1.41–2), Scipio states that some advisory body (*consilium*) is necessary if there is to be a permanent *res publica* at all, and the nature of the advisory body actually determines the nature of the *res publica*: *consilium* in a single person, a monarchy; in a select group of citizens, an aristocracy (*civitas optimatium*); in the hands of the collective citizen body, a democracy (*civitas popularis*).

[9] On the concept of *imperium*, about which there is some scholarly contention, see Drogula (2007) with further references.

[10] *ergo, inquit Scipio, cum ille Romuli senatus, qui constabat ex optimatibus*. Cicero takes care to distinguish 'the Senate of Romulus', the *quasi senatus*, from the later republican Senate; see further Büchner (1984: 183).

be dependent on noble birth but rather on talent and virtue: 'For who in fact can bear the *optimates*, who have claimed this name for themselves not by the consent of the people but by their own elective bodies? How indeed is one judged "best"? "By learning, skills, and energy", I hear.'[11] Indeed, serious problems arise when the people mistakenly use noble birth and wealth rather than virtue as the criteria for being *optimus* (*Rep.* 1.51). This leads Scipio to draw a distinction between those who are real *optimi* and those who merely keep the name (*Rep.* 1.51),[12] before asserting: 'What, in truth, can be more outstanding than virtue governing the *res publica*?' (*Rep.* 1.52).[13] The select political group of the *optimates*, associated with *consilium* and the *senatus*, thus becomes identified with the *optimi*, a morally outstanding class of people who are best equipped to rule, regardless of family pedigree.[14] In his presentation of arguments in favour of aristocracy, Scipio stresses very strongly that the virtuous *optimi* should be in power in some form or other: only with the best as rulers will the *res publica* and the people within it flourish (*Rep.* 1.50–3). Scipio professes to favour monarchy (a single good ruler) over aristocracy (a good group of rulers) from the three simple constitutions, when pressed on the issue (*Rep.* 1.54–5). The mixed constitution, however, offers the best solution for promoting the authority of the *optimi* (*Rep.* 1.69); and the account in the second book of the development of the Roman *res publica* to its ideal state provides such a model of the rule of the *optimi*.

The original system of individual kingly power coupled with sage collective advice saw stability and success for a period (*Rep.* 2.15). After Romulus, however, the *senatus* is elevated, along with the auspices, as one of the two key constitutional cornerstones of the Roman *res publica* (*Rep.* 2.17).[15] The kingly power of *imperium* becomes the legal prerogative of the entire Roman people (*populus*) acting through the curiate and then, following the reforms of Servius, the centuriate assembly (both of which were weighted in favour of the wealthy upper classes),[16] first through selection of the king

[11] *nam optimates quidem quis ferat, qui non populi concessu sed suis comitiis hoc sibi nomen adrogaverunt? qui enim iudicatur iste optimus? 'doctrina, artibus, studiis' audio.*

[12] *nomen illi principes optimorum mordicus tenent, re autem carent.*

[13] *virtute vero gubernante rem publicam quid potest esse praeclarius?*

[14] In his account of the development of the Roman republican constitution towards the end of his speech *Pro Sestio*, Cicero also emphasises that Rome is a meritocracy, in which the Roman people as a whole actively elevate the most virtuous and talented men to the Senate, not only those of noble birth, but *novi homines* too (*Sest.* 136–8).

[15] Note that at *De divinatione* 1.95 Cicero also makes a favourable comparison between Rome and Sparta regarding the prominent place of augury in political proceedings. In *De senectute* it is noted that Roman augurs are ranked strictly by their old age rather than by other criteria (*Sen.* 63–4).

[16] The precise nature and function of these assemblies, and the accuracy of Cicero's depiction of them, has been much debated. For discussion see, for instance, Lintott (1999: 40–64), with further references.

on the basis of personal virtue rather than royal birth (*Rep.* 2.23–5, 2.31, 2.33) and later through appointment to time-limited high offices such as the consulship (2.56). As more or less promised in the final sequence of the first book (*Rep.* 1.69–71), Scipio's account of the development of the Roman *res publica* from its monarchical beginnings to its best state culminates with the *optimi* being the dominant political body, operating collectively as the Senate,[17] in harmonious accord (*concordia*) with the people (*Rep.* 2.69).[18]

The comparison of the Senate with the Spartan elders points to the special political significance of old men in the mixed constitution of the Roman *res publica*. In particular, Scipio's assertion that the Romans 'translated' (*interpretati*) Lycurgus's Greek terms in devising the Latin word *senatus* (*Rep.* 2.50) suggests that the Romans consciously copied the Spartans in defining a distinctive political role for old men. The term certainly lays claim to the authority and respect owed to old age, and it also indicates that the political institution of the Senate embodies the wisdom of age; but, unlike in the Spartan case, there is no indication in *De re publica* that the *optimi* who form the Roman Senate are themselves, as a matter of fact, 'old men' (*senes*), even though they also have the honorific *patres* ('fathers'; *Rep.* 2.23, 2.50, 2.56).[19] Indeed, in *De re publica* as a whole there is nothing prominent at all that is age-related, either in the sense of contrasting 'the old' with 'the young' or in terms of emphasising the distinctive political virtues or roles of 'old men'.[20]

[17] The individual ideal statesman, who provides the kingly element in the mixed constitution, is a member of this collective (in the same way that a Roman may hold a defined office such as the consulship while also being a senator), although at times he may act independently in the interests of the *res publica*, intervening where needed to keep the constitution secure and the state unified and stable; see further Marquez (2011) and Powell (1994).

[18] On the ideal mixed constitution, and in particular the dominance of the Senate, see Arena (2012: 73–116), with comprehensive further references. Compare also the primacy of the Senate in Cicero's speech *Pro Sestio*, where he champions a very similar political model to that in *De re publica*; see further Schofield (2018: 279) and McConnell (2017: 56–8). In *Pro Sestio* Cicero also makes a point of pitching his manifesto in support of the Senate and the *optimates* directly to the young men (*adulescentes*) of Rome, those who aspire to be the future leaders of the *res publica* and who would do best by following the distinguished examples of the great men of the past (*Sest.* 51, 136).

[19] Note that at *De senectute* 63–4 Cato applauds the customs and outstanding morality of both the Romans and the Spartans in that they both make a point of giving public respect, deference, and honour to old men. For the Spartans this extends to reserving the political institution of the *gerousia* for old men, whereas for the Romans old age is not requisite for membership of the *senatus*.

[20] There is, to be sure, the statement that in his reform of the centuriate assembly Servius divided people by age (*aetas*) as well as by wealth and class (*Rep.* 2.39–40, 4.2 [4.1 Powell]): *relicuum populum distribuit in quinque classis senioresque a iunioribus divisit* ('he divided the rest of the people into five classes and he separated the older from the younger'). The *seniores* are all those men aged forty-six years or over (at which age one was listed as a *senior* in the census), but membership of the Senate also seems to have qualified a person as a *senior* regardless of age. Lintott (1999: 61) notes that by being divided into their own groups *seniores* would have held disproportionate voting power in the centuriate

In *De senectute*, composed some years after *De re publica*, there is this comparison of the Roman Senate with the Spartan γερουσία (*Sen.* 18–20):

> But perhaps I, who have engaged in various kinds of war as a soldier and a tribune and a legate and a consul, seem to you now to have become idle since I do not conduct wars. But I dictate to the Senate what things should be done and in what manner …. If, therefore, he [Scipio Africanus] had lived to his hundredth year, would he regret his old age? No, he would not be employed either in running or leaping, nor in long-distance spear throwing or hand-to-hand sword-play, but in advice, reason, and judgement; if these things were not characteristic among old men, our ancestors would not have called the highest advisory body the Senate. At Sparta, in fact, the ones who conduct the highest office are called 'old men', as they are in fact old men. And if you would like to read and hear about foreign affairs, you will find that the greatest states have been destroyed by the young, sustained and restored by the old.
>
> How, tell me, did you lose your great state so soon?
>
> Thus, in fact, is the question, as it is in the play *Ludus* by the poet Naevius: different answers are given, this first and foremost:
>
> New speakers kept coming up, stupid young men.
>
> Rashness clearly is characteristic of the time of youthful bloom, discretion of the time of waning old age.[21]

Although there is much in common, the tone has changed appreciably from *De re publica.* Here the character Cato the Elder, himself eighty-three years of age at the dramatic date of the dialogue (150 BCE), advocates that

assembly: 'The number of male citizens aged from about 17 years (when they were given the *toga virilis*) to 45 would have outnumbered those aged 46 or more, on the life expectancy we can reasonably project for them, by more than two to one'; see also Parkin (2003: 105). At *De legibus* 3.44–5 age (*aetas*) is again cited as a key factor alongside wealth and rank in determining the composition of the centuriate assembly, which is held up as a wise and judicious deliberative and voting body on account of its divisions, in stark contrast to the undivided, classless tribal assembly (*comitia tributa*). On age as an organising factor in Rome's political structure, see also *Cat.* 4.14; *Flac.* 15; *Dom.* 75; *Har. resp.* 11; *Sest.* 109; *De or.* 1.58, 1.223.

[21] *nisi forte ego vobis, qui et miles et tribunus et legatus et consul versatus sum in vario genere bellorum, cessare nunc videor cum bella non gero: at senatui quae sint gerenda praescribo et quomodo … num igitur si ad centesimum annum vixisset, senectutis eum suae paeniteret? nec enim excursione nec saltu nec eminus hastis aut comminus gladiis uteretur, sed consilio ratione sententia; quae nisi essent in senibus, non summum consilium maiores nostri appellassent senatum. apud Lacedaemonios quidem ei qui amplissimum magistratum gerunt, ut sunt sic etiam nominantur senes. quodsi legere aut audire voletis externa, maximas res publicas ab adulescentibus labefactatas, a senibus sustentatas et restitutas reperietis.*

> *cedo qui vestram rem publicam tantam amisistis tam cito?*
> *sic enim percontantur, ut est in Naevi poetae Ludo: respondentur et alia et hoc in primis,*
> *proveniebant oratores novi, stulti adulescentuli.*

temeritas est videlicet florentis aetatis, prudentia senescentis.

'old men' (*senes*) – note the shift from the *optimi* in *De re publica*[22] – should wield active political power on account of their characteristic wisdom, reason, advice, and judgement (*prudentia, ratio, consilium, sententia*); the old should exercise these characteristic talents collectively in the *senatus*, the highest advisory body that in its very name acknowledges the special political role of the old.[23] Moreover, he is emphatic that 'the old' are distinguished by possessing the skills and attributes that are best suited for ruling and for the ongoing health of the *res publica* – virtues that 'the young', as a general rule, lack.[24] Indeed, foreign history supposedly shows that having 'old men' (*senes*) in control ensures the stability and health of *res publicae*, whereas the opposite holds in the case of 'the young' (*adulescentes*). The implicit conclusion of Cato's remarks is clear: the old should rule – and they should do so through an institution such as the Senate.[25]

The use of the Spartan comparison helps Cicero to present a powerful thesis about the special political virtues of old men and the value of political institutions that allow those virtues full expression. But it also prompts some pressing questions. Is the claim about the distinctive virtues of 'the old' convincing? If not, why should anyone accept that 'the old' should rule? How best should the old participate in politics and the wider community – what, if anything, do the old have to offer that is special or unique? How should 'the old', perhaps as a distinctive group in the *senatus* with distinctive skills and attributes, relate to 'the young'? Has the recent history of Rome proven (again) the strengths of the collective senatorial system, or has it revealed irremediable flaws and weaknesses? As Cicero himself grew older (he was sixty-two in early 44 BCE),[26] and as the traditional role of the *senatus*

[22] Indeed, the language of *optimates* and *optimi*, so prevalent in *De re publica*, *De legibus*, and *Pro Sestio*, is strikingly absent in *De senectute* as a whole.

[23] Note that at *De senectute* 56 Cato states bluntly that Roman senators, at least at the time of men like Cincinnatus (dictator in 439 BCE at eighty years of age), literally were 'old men' – *senatores, id est senes* ('senators, that is to say, old men') – who lived on farms and were summoned to the Senate (*a villa in senatum arcessebatur et Curius et ceteri senes*). Here Roman senators appear to be envisioned as old men on the Spartan model.

[24] Powell (1988: 144) notes that this is a commonplace idea and lists a number of parallels in Greek sources.

[25] Here Cato is clearly thinking about a limited set of 'old men', namely those of senatorial status, like himself, who are talented and of good character. He identifies abject lack of wealth (*in summa inopia*) as a barrier to a good old age (*Sen.* 8), in addition to his key refrain that old age is a burden if one has a morally defective character, regardless of one's wealth (*Sen.* 4–14) – a point, like many in *De senectute*, that applies most to the rich.

[26] Powell (1988: 2 n. 8) notes that being over sixty was the generally accepted age of a *senex*, although there are examples of people being called 'old' at much younger ages, owing to judgements about physical decline, retirement, and so forth. Age distinctions in Roman society were quite slippery, subjective categories, not simple matters of biological age; see further Parkin (2003: 15–35); Harlow and Laurence (2011: 4–12). In *De senectute* four ages of life are listed by Cato: *pueritia* ('childhood'), *adulescentia* ('youth'), *aetas media* ('middle age'), and *senectus* ('old age') (*Sen.* 33–4, 70, 76); Powell (1988) *ad loc* notes that this is a commonplace model.

became more and more marginalised, such questions exercised him more and more. His letters from the period of the civil war and Caesar's dictatorship suggest that his own old age was weighing heavily on his mind, as he grappled with his own political impotence and a nostalgic sense of loss, as he saw a marked generational shift taking place around him;[27] such concerns continue to appear after Caesar's assassination, when a more dynamic political or even military role was demanded in response to Octavian and Antony.[28] Cicero's more general philosophical reflections on old age and politics, however, can be seen best in *De senectute*.

10.2 Political Themes in the Preface to *De senectute*

The troubling contemporary state of Roman politics is raised at the very beginning of *De senectute*. Cicero opens the dialogue with a series of quotations from the poet Ennius, which in their original context concern the alleviation of a Roman commander's anxieties during a time of war (*Sen.* 1):[29]

> O Titus, if I will have helped you some,
> or if I will succeed in alleviating your worry,
> which skewered through your heart
> now torments and agitates you,
> would there be any reward?

> For it is permitted for me to speak to you in the same verses, my dear Atticus, in which he,
>
> That man, with no great wealth, but rich in fidelity,
>
> speaks to Flamininus; although I know for sure that it is not the case, as he says of Flamininus,
>
> That you are disturbed, Titus, day and night,
>
> For I know the moderation of your mind and your equanimity, and I realise that you brought back from Athens not only a cognomen but culture and wisdom too.[30]

[27] *Att.* 9.6.7, 9.10.3, 10.4.5 = 172, 177, 195 SB; *Fam.* 2.16.6, 4.4.4, 5.13.5, 5.15.3, 6.4.4 = 154, 201, 203, 244, 252 SB. A few letters from the 50s contain similar anxieties (*Att.* 2.3.4, 6.6.4 = 23, 121 SB).

[28] *Att.* 14.13.2, 14.13B.5 – to Antony, 14.19.1, 14.21.3, 14.22.2, 15.1.4, 15.13.4, 16.3.4, 16.7.5–7 = 367, 367B, 372, 375, 376, 377, 413, 415, 416 SB; *Fam.* 16.23.2 = 330 SB. A letter from Antony to Cicero also appeals to his old age as a key reason for staying out of active politics (*Att.* 14.13A.3 = 367A). Spurious letters in the collections *ad Octavianum* (6.4) and *ad Brutum* (24.6, 25.3) also contain the same concerns about Cicero's old age.

[29] See Powell (1988: 95–6) and Baraz (2012: 173–7).

[30] *o Tite, si quid ego adiuero, curamve levasso*
quae nunc te coquit et versat in pectore fixa
ecquid erit praemi?
licet enim mihi versibus eisdem adfari te, Attice, quibus adfatur Flamininum

Cicero acknowledges that the quotations do not quite work with regard to Atticus himself, since, rather than being beset by anxieties like Flamininus, he possesses self-control and equanimity, and refinement and wisdom gained from Greek culture. But Cicero then proceeds to write (*Sen.* 1–2):

> And yet, I suspect that you, at times, are quite seriously perturbed by the same things that are troubling me; consolation for them is too difficult a task and must be deferred to another time. Now, however, I have determined to write something on old age, dedicated to you. For this burden of old age, which is common to you and me, is either already pressing hard or certainly coming closer, and I want it to be lightened, in fact, for both you and me, even though I know for sure that you at least bear it, and will continue to bear it, moderately and wisely, as you do everything …. To me, at any rate, the composition of this book has been so joyous that it has not only wiped away all the annoyances of old age, but it has even made old age soft and joyous. Therefore, philosophy can never be praised worthily enough: the man who submits to it can pass every period of life without troubles.[31]

This elegant opening gambit is not only an example of Cicero's urbane Latinity, so often a subject of admiration when it comes to *De senectute*;[32] it immediately creates tensions between urgency and calm, between pressing affairs of state and intellectual escape, between anxiety and mental tranquillity (which philosophy can provide), between the heavy burdens of office and the relatively minor annoyances of old age, and so on. Cicero makes the point of not being able to talk openly about the troubling contemporary state of politics in such a way that one is prompted to think about such matters when reading the dialogue, which is purportedly a consolation for the challenges of old age rather than for the current state of affairs. Even though the main body of the dialogue is structured around an imagined historical moment in which Cato the Elder offers consolatory arguments

ille vir haud magna cum re, sed plenus fidei
quamquam certo scio non ut Flamininum
sollicitari te Tite sic noctesque diesque
novi enim moderationem animi tui et aequitatem, teque non cognomen solum Athenis deportasse, sed humanitatem et prudentiam intellego.

[31] *et tamen te suspicor eisdem rebus quibus me ipsum interdum gravius commoveri, quarum consolatio et maior est et in aliud tempus differenda; nunc autem mihi est visum de senectute aliquid ad te conscribere. hoc enim onere, quod mihi commune tecum est, aut iam urgentis aut certe adventantis senectutis, et te et me etiam ipsum levari volo, etsi te quidem id modice ac sapienter, sicut omnia, et ferre et laturum esse certo scio … mihi quidem ita iucunda huius libri confectio fuit ut non modo omnes absterserit senectutis molestias, sed effecerit mollem etiam et iucundam senectutem. numquam igitur digne satis laudari philosophia poterit, cui qui pareat omne tempus aetatis sine molestia possit degere.*

[32] Literary and stylistic analysis in Powell (1988: 95–9).

against four key complaints about old age (that it calls one back from active pursuits, *Sen.* 15–26; that it makes the body weaker, *Sen.* 27–38; that it deprives one of almost all pleasures, *Sen.* 39–66; that it is not far removed from death, *Sen.* 66–85), in keeping with an established tradition on the topic,[33] the fraught contemporary political situation, which demands some consolation or – better yet – remedy, always looms over proceedings.

Cicero's choice of Cato the Elder as the lead figure in the dialogue is also explained in the preface. The key consideration ostensibly is *auctoritas*: an *oratio* on old age from Cato has more *auctoritas* ('weightiness') than a *fabula* in the voice of the mythical figure Tithonus, which is what Aristo offered in his work *On Old Age* (*Sen.* 3).[34] Cicero also states that Cato is his faithful mouthpiece: 'Now, indeed, the speech of Cato himself will make clear my entire thinking on old age' (*Sen.* 3).[35] What increased *auctoritas* does Cicero himself gain by having his own views on old age presented through the character of Cato? The choice of Cato evokes not only his impressive old age, germane to the topic at hand (*Amic.* 4), but also his famous career as consul, censor, and military commander, and in particular his remarkable engagement in political activity into extreme old age.[36] Moreover, it also brings into play the tradition of his great wisdom (*Sen.* 4–5; *Amic.* 5–6),[37] his austere and upright character, and his staunch republican values,[38] duplicated in recent years by his namesake Cato the Younger, a very prominent figure in Cicero's philosophical reflections on the civil war and Caesar.[39] By using the illustrious elder Cato as his

[33] Powell (1988: 12–16, 24–30) gives a good survey of philosophical and moralising works on the topic of old age.

[34] For critical discussion of the identity of Aristo – the Stoic Aristo of Chios or the Peripatetic Aristo of Ceos – and the possible influence of the philosophical content on *De senectute* as a whole, see particularly Lefèvre (2007).

[35] *iam enim ipsius Catonis sermo explicabit nostrum omnem de senectute sententiam.*

[36] Full biographical details in Astin (1978).

[37] Cato had the cognomen *sapiens* – 'Cato the wise' (cf. *Caecin.* 66; *Verr.* 2.2.5).

[38] References to the elder Cato across Cicero's oeuvre indicate that Cicero held him in very high esteem in a number of respects: as a *novus homo*, like himself, who had succeeded in civic life on his own merits (*Rep.* 1.1); as an austere man of virtue and resolute principle (e.g. *Caecin.* 66; *Verr.* 2.2.5, 2.3.160, 2.5.180; *Leg. agr.* 2.64; *Arch.* 16; *Sest.* 60); as a literary figure (e.g. *Planc.* 66; *Brut.* 75; *Tusc.* 4.3); as an orator (e.g. *De or.* 1.171, 1.215, 3.135; *Brut.* 63–7). On Cicero's general use of Cato as an *exemplum*, see Powell (1988: 17–22). On his use of Cato as a personal *exemplum*, see in particular van der Blom (2010: esp. 154–7, 180–1, 244–7, 326–37), with further references to earlier literature.

[39] Cicero had even published a kind of eulogy shortly after Cato's suicide in April 46 BCE, the *Cato*, to which Caesar had responded with an *Anti-Cato*; see further Jones (1970), Kierdorf (1978), and Wassmann (1996: 139–59). For further critical discussion of Cicero's philosophical reflections on Cato's life and character across his letters and philosophical works, see Gildenhard (2007: 121–4, 204–6), McConnell (2014: 161–94), and Fantham (2003).

mouthpiece, Cicero invites us to think of him as a Cato, with all the political baggage that may entail.

The identification with Cato can be interpreted in a number of ways that are reflective of Cicero's use of philosophical writing to grapple with his own personal predicament and political marginalisation under Caesar.[40] Stull argues that Cato's life offers a model for emulation, and that 'the dialogue will succeed if the reader can be brought to believe, at least temporarily, that his final years will resemble Cato's – marked not by a descent into irrelevance and debility, but by continued activity, moderate pleasures, and universal respect'.[41] On the other hand, one can imagine Cicero reflecting on his own position at the beginning of 44 with a kind of nostalgia for a life denied – he will be no Cato in his old age, though Cato was also a *novus homo* and a man on whom he had modelled himself across his own political career (*Rep.* 1.1).[42] The choice of Cato as the prime speaker can also be seen to serve a more general point. Parkin notes that in the traditional republican constitution most power was accorded to older generations, most obviously through the *seniores* in the centuriate assembly but also through the respect and authority given to older senators who had already served in high office: in *De senectute* Cicero targets the contemporary failure to maintain this model of senatorial politics, to the detriment of old men like himself and of the *res publica* as a whole, through a contrast with the time of Cato, when it was clearly in place, to the benefit of all.[43]

Furthermore, the presence of Scipio and Laelius in conversation with Cato creates a strong intertextual link with Cicero's earlier dialogue *De re publica*, in which they are the two main interlocutors discussing the best constitution

[40] On which see further McConnell (2014), Baraz (2012), Gildenhard (2007), Wassmann (1996), and Strasburger (1990), with detailed further references.

[41] Stull (2013: 44). Strikingly, Cicero himself acknowledges reading his own dialogue and being emotionally moved by the words of Cato (*Amic.* 4; *Att.* 14.21.3 = 375 SB); see further Stroup (2013: 143–9).

[42] See further van der Blom (2010: esp. 224–7, 326–37).

[43] Parkin (2003: 65–8, 100–9). As early as the 60s, Cicero had eagerly looked forward to such a role for himself (*Att.* 1.16.8, 1.17.6, 1.19.6 = 16, 17, 19 SB). After his consulship and return from exile, he realised the unhappy unreality. In a letter to his brother Quintus from 54 (*QFr.* 3.5.4 = 25 SB), he indicates that such a senatorial role is denied him: *angor, mi suavisime frater, angor nullam esse rem publicam, nulla iudicia, nostrumque hoc tempus aetatis, quod in illa auctoritate senatoria florere debebat, aut forensi labore iactari aut domesticis litteris sustentari* ('I am tormented, my dearest brother, I am tormented that there is no *res publica*, no judgements at law, and that this time of my life, which ought to be blossoming in senatorial authority, either is tossed in forensic practice or supported by literary studies at home').

and the ideal statesman.[44] Although deceased at the dramatic date of *De re publica*,[45] Cato remains a prominent figure in the dialogue. In the preface Cicero singles him out as a man whom it is especially worthy to emulate, owing to his virtue and his active public service into extreme old age (*Rep.* 1.1):

> Marcus Cato, an unknown man of no pedigree – a man who serves as a model of industry and virtue to all of us who share his goals – could have remained at Tusculum, a healthy spot and not far off, enjoying peace and quiet; but that madman (as some people think), under no compulsion, chose to be tossed in the waves and storms of public life to an advanced old age rather than live a happy life in peace and calm. (trans. Zetzel)[46]

Cato's character and his practical achievements into old age are also praised highly by Scipio at the start of the second book (*Rep.* 2.1–2); and his work *Origines* is cited as the key model for the account of the Roman constitution that follows (*Rep.* 2.3). The choice of characters in *De senectute* thus calls to mind not only a particularly glorious period in Roman republican history, against which the present compares poorly, but also *De re publica* and its account of the ideal statesman and the best constitution.

As well as explaining a number of literary and stylistic choices, the preface to *De senectute* brings into play an underlying political framework for what is to follow on old age, in which traditional republican values and *exempla* are to the fore,[47] and in which, just as in *De re publica* (5.1–2 [5.1 Powell]), there is the view, attributable to Cicero himself, that some sort of consolation or remedy is needed for present ills.[48] This then prompts

[44] Schofield (2018: 288–94) highlights the significant affinity of *De senectute* to the earlier dialogues *De oratore* and *De re publica* with regard to characterisation, style, and setting. He explains this by appeal to the strong convictions that Cicero himself had regarding the subject matter, which caused him to opt against a more sceptical approach that would detract from the force of what he has to say: 'Old age and friendship were in different ways topics evidently close to Cicero's heart and mind, on which he wanted to give a personal view, and in these respects resembling the questions about the orator and the *res publica* he had explored in *De oratore* and *De re publica* ten years before, rather more than the philosophical encyclopaedia that began with *Hortensius* and ended with *De fato.* The obvious inference is that it was to give his treatment of these topics maximum *auctoritas* that he reverted to the same style and setting as he had adopted in *De re publica*, placing it on the lips of the great men of old' (292).

[45] The dramatic date of the *De re publica* is 129, and Cato died in 149 BCE.

[46] *Marco vero Catoni, homini ignoto et novo (quo omnes qui eisdem rebus studemus quasi exemplari ad industriam virtutemque ducimur), certe licuit Tusculi se in otio delectare, salubri et propinquo loco; sed homo demens, ut isti putant, cum cogeret eum necessitas nulla, in his undis et tempestatibus ad summam senectutem maluit iactari, quam in illa tranquillitate atque otio iucundissime vivere.*

[47] See further Powell (1988: 16–22). On Cicero's use of *exempla* in general, see especially van der Blom (2010).

[48] On this element of *De re publica*, see further Zarecki (2014: 77–131), Zetzel (1995: 27–9; 2017c: viii–xx), Gildenhard (2007: 128–30), McConnell (2012: 343–5; 2017), Asmis (2005), and Girardet (1983).

the question: can 'the old' provide it? The short answer is 'yes'. As the next section will show in some detail, *De senectute* contains a prescriptive model of the role of old men in politics that is intermittently highlighted against the background of the dominant topic, the supposed burdens of old age, and that can be seen as Cicero offering some degree of both consolation and remedy for the contemporary political situation.

10.3 The Political Role of the Old

Most of the relevant material emerges as Cato answers the first charge against old age, that it calls one back from active pursuits. As well as being based on a simple observation about the physical infirmities of old age, this charge captures Roman social conventions regarding the political role of old men. It is clear from Cicero's wider oeuvre that old age was seen as the culmination of an active political career, a time of *otium* when one could honourably choose to retire from politics and do other things (e.g. *Att.* 1.10.4, 2.3.4, 14.13A.3 = 6, 23, 367A SB; *De or.* 1.2–5, 1.254–5; *Leg.* 1.10–11; *Brut.* 8; *Acad.* 1.11).[49] It is also clear, however, that old age was seen as a time when certain active roles in political life were fitting. In particular, the old should play the role of *patronus*, dispensing political and legal advice and favour to their clients from their own home (e.g. *De or.* 1.99, 1.200; *Leg.* 1.10–11). Moreover, if not infirm, in which case they are excused, the old should play the role of active senator: they should turn up for debates and discussions, even if they do not take on *imperium* or other leading magistracies (e.g. *Rosc. Am.* 90; *Sest.* 112; *Cael.* 3; *QFr.* 3.5.4 = 25 SB; *Fin.* 5.52; *Phil.* 1.11, 2.118, 8.31).[50] Although old age does call one back from the kind of active pursuits undertaken by younger men, there is a well-defined role for the old Roman senatorial statesman.

It is somewhat striking, then, that in his general opening remarks Cato cites examples of old men such as Quintus Fabius Maximus being active not only in the Senate but also in military affairs: 'This man waged war like a young man, although he was quite old, and by his endurance

[49] On old age and *otium cum dignitate*, see further, for example, Boyancé (1948), Wirszubski (1954), Balsdon (1960), Fuhrmann (1960), and Dalfen (2000).

[50] Old office holders appear to be exceptional and worthy of note, such as Marius the Consul (*Nat. D.* 3.81) and Cato the Censor (*Brut.* 89). Cicero also mentions old legal advocates and orators, who again seem quite rare and worthy of note (*Brut.* 131, 230; *Fam.* 8.2.1 = 78 SB). Parkin (2003: 93–137) and Cokayne (2003: 94–111) discuss the legal and social obligations regarding the public and political roles of old men. Both seek to draw more general conclusions about the actual number of old men active in the Senate and in holding office, based on the statistical methods of the social historian.

he weakened the cocky young Hannibal' (*Sen.* 10).[51] Clearly, as a matter of historical fact, there were such exceptional examples of old men being active in the same capacities as young men.[52] But the general point remains: the old are not usually active in the same fashion as the young. Indeed, as we have seen above, the old, as a general rule, are characterised by Cato as being differentiated from the young in so far as they have specific virtues that find a different kind of expression in civic life: the old are characterised by their *consilium*, *auctoritas*, *sententia*, *ratio*, and *prudentia* (*Sen.* 15, 17, 19–20, 61–2, 67); these virtues find expression in the realm of strategic governance in bodies such as the Senate rather than in *imperium* or physical exertion in the field.[53] Nonetheless, Cato is keen to argue that in this respect the old continue to play a genuinely active role. He poses the question: 'And other old men – like Fabricius, Curius, Coruncanius – when they were defending the *res publica* with their advice and influence, were they doing nothing?' (*Sen.* 15).[54] Soon after he asserts (*Sen.* 17):

> Therefore, they contribute nothing, those who deny that old age engages in exploits, and they are like those who would say that the helmsman does nothing in sailing, since others climb the masts, others run about through the gangways, others empty the bilge water, and he, on the other hand, sits quietly in the stern holding the tiller. He does not do the things that the young do; but in truth he does things by far greater and more important. It is not by muscle, speed, or physical dexterity that great things are achieved, but by counsel, authority, and judgement; things in which old age is usually not only not lacking but, in fact, enriched.[55]

Employing the ship of state image, familiar most of all from Plato's *Republic* (6.488a–489d),[56] Cato stresses that the active role played by the old is in fact greater than those roles generally performed by the young; in particular, like Socrates in Plato's *Republic*, he elevates the power of the intellect over physical strength with regard to practical success, the achievement of

[51] *hic et bella gerebat ut adulescens, cum plane grandis esset, et Hannibalem iuveniliter exsultantem patientia sua molliebat.*

[52] For instance, in *Pro Sestio* Cicero comments on Marius's military service as an old man (*Sest.* 50).

[53] Compare also *Sen.* 38; *Tusc.* 1.94; *Off.* 1.122–3.

[54] *ceteri senes, Fabricii Curii Coruncanii, cum rem publicam consilio et auctoritate defendebant, nihil agebant?*

[55] *nihil igitur adferunt qui in re gerenda versari senectutem negant, similesque sunt ut si qui gubernatorem in navigando nihil agere dicant, cum alii malos scandant, alii per foros cursent, alii sentinam exhauriant, ille autem clavum tenens quietus sedeat in puppi. non facit ea quae iuvenes; at vero multo maiora et meliora facit. non viribus aut velocitate aut celeritate corporum res magnae geruntur, sed consilio auctoritate sententia; quibus non modo non orbari, sed etiam augeri senectus solet.*

[56] This is one of Cicero's favourite images. For a comprehensive discussion of its use by Cicero, see Mebane (2022).

great things (*res magnae*). In the following sequence, with regard to Scipio's grandfather, Cato again contrasts deliberative skill favourably with physical strength and martial prowess (*Sen.* 19), and, with reference to his own career and exploits, he suggests that his current advisory activities are no different in kind to actively waging war in the field (*Sen.* 18). The obvious lesson is that (at least some) old men, far from being called back from active pursuits, are not only still active, they are in fact active in the most important ways for the defence and the military success of the Roman *res publica*.

The active role of the old is important not only militarily, in dealing with external enemies, but also in terms of ensuring internal political stability. Cato asserts that the old have the virtues that are fundamental for deliberating and reaching the right course of action, whereas the young lack them (*Sen.* 19–20). He then declares that the results are clear in the history of other states: the young are the cause of civil strife, whereas the old ensure the stability of *res publicae*, either by supporting (*sustentatas*) the state or by restoring (*restitutas*) it to a state of health after strife (*Sen.* 20).[57] At the dramatic date of *De senectute*, Cato has no reason to place Rome alongside other states that have suffered such inter-generational civil strife.[58] However, blaming young men for civil strife at Rome is quite prevalent in Cicero's wider oeuvre. For instance, he characterises the Catilinarian conspiracy of 63 BCE as involving corrupt young men (*Cat.* 1.12; *Mur.* 49).[59] He also alludes to a generational shift when he bemoans the fact that the young have no memory or experience of a properly functioning *res publica* (*Rep.* 3.41 [3.34 Powell], 5.1–2 [5.1 Powell]; *Fam.* 12.23.3 = 347 SB). Moreover, in *De re publica*, the reference to 'my grandson' in the Dream of Scipio (*Rep.* 6.11 [6.15 Powell]) suggests that it is a younger generation that first sets in motion civil strife at Rome. To be sure, the distinctive role of old men in sustaining and restoring the *res publica* is not highlighted before *De senectute*: in *De re publica* it is the ideal statesman who deals with civil strife (*Rep.* 1.9, 6.1 [6.1–6 Powell], 6.11–12 [6.15–16 Powell], 6.29 [6.33 Powell]), and in *Pro Sestio* the great-souled defenders of the *res publica*, the *optimates*, are extolled for protecting the state against such internal disturbance (*Sest.* 1, 60, 62, 99, 105, 139, 141, 143). In *De senectute*, however, the *senes* have taken

[57] Note also that towards the end of the dialogue, Cato even goes as far as to say that it is the old who are responsible for the very existence of states: *itaque pauci veniunt ad senectutem: quod ni ita accideret, melius et prudentius viveretur; mens enim et ratio et consilium in senibus est, qui si nulli fuissent, nullae omnino civitates fuissent* ('And so a few come to old age: but if it did not happen in this way, life would be lived better and more wisely; for old men have understanding and reason and wise counsel, and if there had been no old men, there would have been no states at all', *Sen.* 67).

[58] Cf. Cic. *QFr.* 3.5.2 = 25 SB; *Fam.* 4.9.3 = 231 SB.

[59] Compare also Sallust, *B. Cat.* 14.1–7, 16.1–4, 17.3–7.

over the role – Cicero has Cato depict the old as the ultimate defenders of the state against the threat of discord posed by the young.[60]

In addition to having distinctive virtues, which may also be possessed by the young to some degree, Cato gives examples that demonstrate some distinctive advantages that the old possess in actively exercising those virtues in the political sphere. Most of all, old age makes it easier to be courageous and fearless in standing up against power. Thus, as consul, Quintus Fabius Maximus acted unilaterally, without his colleague's support, to uphold the will of the Senate and thwart a tribune's efforts to redistribute land, through what could be seen as an impious abuse of religious procedure: 'And even though he was an augur, he dared to say that things which were of benefit to the *res publica* were done under the best auspices; and that those which were inimical to the *res publica* were carried out against the auspices' (*Sen.* 11).[61] The old can also employ a grand style in political oratory, which befits them and is effective in their hands.[62] Thus, while debating whether to seek peace and an alliance with Pyrrhus, Appius Claudius, old and blind, spoke *gravissime* ('with utmost solemnity') and swayed the Senate to maintain hostilities (*Sen.* 16).

The political role of the old is not limited to the Senate and dealing with civil strife. Appealing to numerous examples, including himself, Cato argues that, rather than being senile, the old in fact have excellent memories (*Sen.* 21–3), and they are distinguished for their knowledge and direct memory of the great men and the great achievements of the past (*Sen.* 10–20, 29–30, 41–5, 49–50, 55–6, 60–1, 75, 82).[63] Indeed, in *De senectute* it is apparent that the history, the laws, and the values of the *res publica*

[60] For critical discussion of whether or not there was actually a real generational conflict in the late republic, see further the sceptical arguments in Isayev (2007), with further references.

[61] *augurque cum esset, dicere ausus est optimis auspiciis ea geri, quae pro rei publicae salute gererentur; quae contra rem publicam ferrentur, contra auspicia ferri.* In a letter to Atticus from 59 Cicero presents another striking example of an old man standing up against land reform: *modo caedem timueramus, quam oratio fortissimi senis, Q. Consi<di>, discusserat* ('A short time ago we feared a massacre, which the speech of a very brave old man, Quintus Considius, smashed to pieces', *Att.* 2.24.4 = 44 SB). Considius had turned up to the Senate to speak against Caesar's proposed agrarian reforms when many others stayed away out of fear. When asked why he had not been more cautious, he declared 'old age makes me fearless!' – see Shackleton Bailey (1965–70: 1.403–4). The same connection between old age and fearlessness also appears in a spurious letter in the collection *ad Brutum* (25.6.3).

[62] In the *Brutus* Cicero makes the point that the old can use a severe and grand style effectively, whereas it is not so fitting or impressive coming from the young (*Brut.* 265, 325). On the other hand, the Asiatic style befits the young but is not effective for the old (*Brut.* 325–7).

[63] Note in particular the following remark: *equidem non modo eos novi qui sunt, sed eorum patres etiam et avos; nec sepulcra legens vereor, quod aiunt, ne memoriam perdam; eis enim ipsis legendis in memoriam redeo mortuorum* ('I, for instance, know not only those men who are here now, but their fathers and grandfathers too; and reading their epitaphs I am not afraid that I shall lose my memory, as they say; for by reading them I actually refresh my memory of the dead', *Sen.* 21). Compare also *Amic.* 88.

(the tradition which forms the *mos maiorum* or 'way of the ancestors') are passed down from one generation to the next in a manner that relies heavily on individuals' memory and personal connections – and old men, owing to their prodigious memories and the scope of their knowledge, have an especially important role to play in the transmission of the *mos maiorum*.[64] Such a model is on display when Cato recounts his own youthful experience of learning about Roman history and law from the old Quintus Fabius Maximus (*Sen.* 12):[65]

> Nor, in fact, was that man great only in public view and in the eyes of the citizens, but he was more outstanding inside his home: what conversation, what maxims, how much knowledge of the past, what skill in augural law! Many literary pursuits, too, for a Roman; he kept everything in his memory, not only internal but also foreign affairs. Thus, I was eager to profit by his conversation, as if I already foresaw what eventuated, that when he was gone I should have no one from whom I might learn.[66]

Cato also describes how the old pass on their expertise in oratory and law (*Sen.* 27–9), declaring triumphantly: 'Or do we not even concede to old age that strength to instruct, train, and equip young men for every service of duty? Indeed, what can be more distinguished than this task?' (*Sen.* 29).[67]

The old clearly have the central role to play in educating the next generation, in securing the continuance of the *mos maiorum* so that the values, the institutions, and the memories of the past are not lost forever. In *De re publica* the character Laelius suggests that success in this will ensure the stable continuance of the *res publica* for all time: 'However, I am anxious about our own descendants and about the immortality of the *res publica*, which could last forever, if the institutions and the customs of our fathers

[64] For more general critical discussion of the focus on *memoria* and *mos maiorum* among Roman authors of the late republic, see Moatti (2015: 10–44) and van der Blom (2010: esp. 1–26), with further references.

[65] Cicero also recounts his own youthful experience with old men such as Scaevola, from whom he learned legal skill and whose responses he memorised (*Amic.* 1). The same model of the old imparting their knowledge to the young appears in *De oratore* (1.200, 1.207). Cicero also alludes to the fittingness and mutual benefits of the old being friends with the young in *De amicitia* (101).

[66] *nec vero ille in luce modo atque in oculis civium magnus, sed intus domique praestantior: qui sermo, quae praecepta, quanta notitia antiquitatis, scientia iuris augurii! multae etiam ut in homine Romano litterae; omnia memoria tenebat, non domestica solum sed etiam externa. cuius sermone ita cupide fruebar, quasi iam divinarem, id quod evenit, illo exstincto fore unde discerem neminem.*

[67] *an ne illas quidem viris senectuti relinquimus, ut adulescentis doceat, instituat, ad omne offici munus instruat? quo quidem opere quid potest esse praeclarius?* Powell (1988: 165) translates *omne offici munus* as 'the tasks pertaining to one's function in life'.

were maintained' (*Rep.* 3.41 [3.34 Powell]).[68] In earlier key texts that address crisis and stability in the Roman body politic, such as *De re publica* and *Pro Sestio*, Cicero appears to focus most on delivering a message to ambitious young Romans: uphold the laws and constitutional structures that have been passed down, follow the true *mos maiorum* and the examples of the ancestors, and you will become a new generation of great men and the Roman state will be renewed and sustained in a healthy form. Great responsibility is placed on the young to live up to the examples of the past. In *De senectute*, the focus is more on delivering a direct message to the old (the more likely readers of a consolatory text about old age in any case): the old must make sure the process of inter-generational transfer operates properly so that the laws and constitutional structures, and also the memories of great men and great deeds, are passed down to future generations, ensuring the ongoing stability and health of the Roman state. It is the responsibility of the old to make sure they are not neglecting their duty, despite the troubles and travails of the present historical moment.[69]

In *De senectute* Cato uses the charming image of the tree-planting farmer to make the point that the old act selflessly for the good of future generations (*Sen.* 24–5):

> But come now, to pass over these divine pursuits, I could name Roman farmers from the Sabine country, friends and neighbours of mine, who are never absent while any of the more important tasks in the country are taking place, not during sowing, not during harvesting, not while storing the crops. Although this is less remarkable in the case of other crops – for no

[68] *tamen de posteris nostris et de illa immortalitate rei publicae sollicitor, quae poterat esse perpetua, si patriis viveretur institutis et moribus.* See further McConnell (2017: 61–7).

[69] Of course, Cicero's own literary enterprise of the 50s and 40s contributes to enshrining and passing on Roman ancestral tradition for future generations. Assessing his philosophical achievements at the start of the second book of *De divinatione*, he states: *quod enim munus rei publicae adferre maius meliusve possumus, quam si docemus atque erudimus iuventutem, his praesertim moribus atque temporibus, quibus ita prolapsa est, ut omnium opibus refrenanda ac coercenda sit? nec vero id effici posse confido, quod ne postulandum quidem est, ut omnes adulescentes se ad haec studia convertant. pauci utinam! quorum tamen in re publica late patere poterit industria. equidem ex iis etiam fructum capio laboris mei, qui iam aetate provecti in nostris libris adquiescunt; quorum studio legendi meum scribendi studium vehementius in dies incitatur; quos quidem plures quam rebar esse cognovi* ('For what greater or better service could I offer to the *res publica*, than if I were to teach and instruct the youth, especially in these times and in this moral climate, in which the youth has sunk into ruin to such an extent that it must be restrained and controlled by every means? In truth, I admit that it may not be possible to bring this about, a thing that in fact must not be demanded, namely that all the young men turn themselves towards these studies. Would that a few! But a few, their hard work may be able to extend widely in the *res publica*. To be sure, I am also getting reward for my labour from men already advanced in age, who find relief in my books; my enthusiasm for writing is roused more strongly each and every day by their enthusiasm for reading; in fact, I know there to be more of them than I used to suppose', *Div.* 2.4–5).

> one is so old as to think that he cannot live one more year – yet these same men labour at things which they know will not at all pertain to them:
>
> He plants the trees which will benefit another age,
>
> as our Statius says in his *Synephebi*; and in truth a farmer, however old, does not hesitate to reply to those asking for whom he is planting, 'For the immortal gods, who have wished not only that I should receive these things from my ancestors, but also that I should hand them on to posterity'.[70]

This passage occurs in the context of a series of consolatory arguments about the kind of productive activities one can undertake in old age. The emphasis here is not just on the physical activity of farming, but on the satisfaction of doing things for the benefit of future generations, even with no real expectation of a return for oneself.[71] We can see here a line of argument that can also be applied more generally in the political realm, where it would run as follows: the old should seek to pass on the blessing of the *res publica*, which they have received from their ancestors, to future generations, even though they shall no longer benefit from it themselves. This very sentiment appears powerfully in a letter Cicero wrote to Atticus in April 49 BCE, during the early period of the civil war (*Att.* 10.4.5 = 195 SB):

> Therefore, I am sustained by a clear conscience, since I think that I served the *res publica* excellently when I could or, at any rate, that I never thought any way except dutifully, and that I foresaw fourteen years ago this very storm that has overturned the *res publica*. Therefore, I shall proceed with this conscience for a companion, with deep sorrow to be sure, not so much for me or for my brother, whose time has already been, but more for our boys: sometimes I feel that it is really our duty to bequeath the *res publica* to them.[72]

[70] *age ut ista divina studia omittamus, possum nominare ex agro Sabino rusticos Romanos, vicinos et familiaris meos, quibus absentibus numquam fere ulla in agro maiora opera fiunt, non serendis, non percipiendis, non condendis fructibus; quamquam in aliis minus hoc mirum est – nemo est enim tam senex qui se annum non putet posse vivere – sed idem in eis elaborant quae sciunt nihil ad se omnino pertinere:*

serit arbores quae alteri saeculo prosient,

ut ait Statius noster in Synephebis; nec vero dubitat agricola, quamvis sit senex, quaerenti cui serat respondere, 'dis immortalibus, qui me non accipere modo haec a maioribus voluerunt, sed etiam posteris prodere'.

[71] Powell (1988: 155) notes other examples of the selfless tree-planting farmer from Roman authors following Cicero, including Vergil, Horace, and Seneca. Interestingly enough, Cicero's contemporary, the Epicurean philosopher Philodemus, uses the same image in *De morte* (38.33–39.1 Henry), while promoting the opposite Epicurean line: planting trees for another age is a futile and misguided endeavour, since there is no return to the old farmer and so no valid hedonist motive to do it.

[72] *praeclara igitur <con>scientia sustentor, cum cogito me de re publica aut meruisse optime cum potuerim aut certe numquam nisi pie cogitasse, eaque ipsa tempestate eversam esse rem publicam quam ego XIIII annis ante prospexerim. hac igitur conscientia comite proficiscar, magno equidem cum dolore, nec tam id propter me aut propter fratrem meum, quorum est iam acta aetas, quam propter pueros, quibus interdum videmur praestare etiam rem publicam debuisse.* Shackleton Bailey translates the final line more liberally: '… who I sometimes feel had a right to expect from us a free constitution as part of their inheritance'.

In this letter, and in *De senectute*, the central concern is that the younger generation has the chance to flourish in the same manner as the older. The old realise that they have benefited by receiving things from their ancestors: resources such as mature trees on the farm, but also, at a more general level, the healthy state of the *res publica*. The old in particular have the duty to ensure that the farm, and indeed the *res publica*, are passed on in a healthy state.

Taking care to ensure the health of the farm and the *res publica* for future generations is an uplifting ideal, but there are some questions that should exercise the philosopher. What is the moral psychology that motivates the old to act for the benefit of future generations? Why should the old care to perform this role and not opt for a quiet retirement out of the fray? Why should the old care to get involved in physical and political activity, perhaps even military roles, particularly when things are going badly like they are in the 40s BCE? In the passage from *De senectute* a simple reason is given for planting trees for the benefit of a future age: because the gods have ordained it, and so by acting for the benefit of future generations the old are honouring the gods and in a sense repaying them for their own blessings (the fact that previous generations had selflessly taken good care to provide for them). This is a very similar argument to that which Socrates famously makes in the *Republic* regarding the duty of the philosopher-kings to serve and give back to their community, to return to the cave and practise politics, even though a quiet life contemplating the Forms seems better for them. The duty arises since they themselves have benefited from the education and opportunities provided by the well-ordered state into which they were born, beyond what they may have achieved purely from their own natural talents, and so they owe a debt or obligation to the state that allowed them to develop into the enlightened people they are (*Rep.* 7.519c–521a).[73] The old Roman citizen likewise has benefited from being born into the well-ordered Roman *res publica* set up and passed on by his ancestors. The blessings of the *res publica* have allowed him to flourish and to achieve great things that he may not have

[73] Note in particular the striking address to the philosopher-kings at *Republic* 7.520b: 'it is *we* who gave birth to you, both for your own benefit and that of the others, as leaders and kings as it were, in the hive, better and more completely educated than the rest and more capable than they are of sharing in both kinds of life' (trans. Rowe). For a positive critical account of the arguments in this passage, see further Kraut (1991). The (pseudo?)-Platonic *Ninth Letter* presents the idea of a duty to one's fatherland more powerfully. This letter is one of Cicero's favourite touchstones when promoting the natural duty one has to one's fellow citizens and the state (explicit allusions at *Fin.* 2.45 and *Off.* 1.22).

done otherwise;[74] and so likewise he has a duty to act selflessly in passing on a healthy *res publica* to others, who may benefit in turn.[75]

Here, and indeed in *De senectute* more widely, Cicero is drawing on the arguments in Plato's *Republic* concerning the philosopher-kings who are best equipped to rule owing to their special talents, and who are obligated to get involved in politics and serve current and future generations, but only so long as political conditions are conducive and appropriate (*Rep.* 6.496b–497c).[76] We have seen the ship of state image already, where the old man takes the role of the philosopher (*Sen.* 17). In the early part of the dialogue (*Sen.* 6–8), Cicero also closely imitates the opening scene of Plato's *Republic* with the old man Cephalus (*Rep.* 1.328d–330a), including translation of the Greek.[77] Further, in the final part of the dialogue, Cato presents distinctively Platonic ideas on the immortality of the soul (*Sen.* 66–85).[78] Moreover, it is clear that in *De senectute* the old essentially play the role of the philosophers in the *Republic*: the old are the best equipped to rule, to guide the state, to ensure its stability now and into the future, and so on.[79] Crucially, in the Roman case, Cato offers the old no easy

[74] This notion is paramount in *De re publica*. Note in particular *Rep.* 5.7 [3.3 Powell]: *nec bene vivi sine bona re publica posset nec esse quicquam civitate bene constituta beatius* ('It is not possible to live well without a good *res publica*, nor can a man be happier than in a well constituted state'). In a purple passage of *Orator*, Cicero makes a similar point: *nescire autem quid ante quam natus sis acciderit, id est semper esse puerum. quid enim est aetas hominis, nisi ea memoria rerum veterum cum superiorum aetate contexitur?* ('To be ignorant of what took place before you were born is to be forever a child. For what indeed is the life of a person, unless it is woven together with the time of former men by the memory of the deeds of the ancients?', *Orat.* 120).

[75] This Platonic line of argument is articulated most clearly by Cicero at *De re publica* 1.8: *neque enim hac nos patria lege genuit aut educavit, ut nulla quasi alimenta exspectaret a nobis* ('For, in truth, our fatherland did not give birth to us or educate us without expecting something in return, as it were, from us'). This sentiment also appears in the closing statement of Cicero's *First Philippic* (1.38) and in certain letters from late 44 BCE (*Fam.* 10.1.1, 10.3.3, 12.23.3 = 340, 347, 355 SB).

[76] Judging when conditions are conducive and appropriate is a vexed problem. Indeed, the (pseudo?)-Platonic *Seventh Letter* spends significant space addressing the issue and defending Plato himself from the charge that he got it wrong in practice (327b–329c). The (pseudo?)-Platonic *Fifth Letter* also addresses the issue. In places Cicero explicitly refers to both these letters when reflecting on his own choices to engage actively in politics (*Fam.* 1.9.18 = 20 SB; *Att.* 9.10.2, 9.13.4 = 177, 180 SB); see further McConnell (2014: 35–44, 62–114).

[77] For detailed analysis of Cicero's imitation of Plato and his adaptation of the scene with Cephalus, see Powell (1988: 110–20), Lefèvre (1997), and Stull (2013). Cephalus was also used as a model for the character Scaevola in *De oratore* (*Att.* 4.16.3 = 89 SB).

[78] See further Powell (1988: 238–9).

[79] Note that the political significance of old age also figures somewhat in Plato's *Republic*. The importance of the old man Cephalus to the dialogue as a whole is debated by scholars, but the philosopher-kings themselves have an onerous education, with the final momentous step – the raising of the eyes of the soul to the Good itself (*Rep.* 7.540a–b) – only taking place at fifty years of age, which means that they are quite 'old' by the time they are qualified to actually rule in practice. Earlier Socrates appears to endorse a principle 'the old should rule' when he poses the question: 'Clearly, the ones who rule should be older, and the ones who are ruled should be younger?'; to which comes the reply: 'Naturally' (*Rep.* 3.412c).

opt-out from practical politics such as what Socrates provides the philosophers in the *Republic* when he declares: 'but this is just what I am complaining about: there is no existing form of society worthy enough for the philosophic nature' (*Rep.* 6.497b). On the contrary, political conditions are routinely such that the old can and should exercise their talents and play their role – and, as Cato indicates throughout *De senectute*, history and practical experience show the real benefits provided by the old.[80]

Plato's *Republic* is brought strongly into the minds of the reader at the start of *De senectute* and again at the end, and its central conceit pervades the dialogue as a whole. The most exalted political class, however, is clearly not the radical option of philosopher-kings: it is old men of wisdom, dignity, experience, and authority, who embody and know the *mos maiorum*, and who have a selfless concern for future generations and the continuing health of the *res publica*; it is they who should be in the ultimate position of political power.

10.4 Epilogue

In *De senectute* there is a coherent philosophical position regarding the political role of old men that aligns closely with the model of senatorial politics expounded in *De re publica* and *Pro Sestio*. Old men should wield active political power on account of their characteristic talents and virtues; the old should exercise these characteristic talents collectively in the Senate, an institution that allows their fullest expression. Practical experience and political history illustrate the benefits of the old wielding the highest political authority.

This model is not only an element of the consolation for old age, a kind of idle nostalgia for how things should and used to be: it also offers a practical remedy for the troubling political state of affairs – it can be seen as a call to arms to Cicero's contemporaries in 44 BCE, in particular old men like himself, now sixty-two years of age, with the first-hand experience and direct memory of a time when the Senate was the dominant political body at Rome. Indeed, one of the most pressing challenges in the wake of the civil war was to make the traditional system of senatorial politics function again. As Cicero's letters indicate, under the dictatorships

[80] Stull (2013: 43–7) argues that in *De senectute* Cicero alludes to the *Republic* in order to promote a methodological point: practical experience is superior to the sort of theoretical inquiry that predominates in Plato's *Republic*. This would repeat the same argument made forcefully in the second book of *De re publica* (2.3, 2.21–2, 2.51–2). There are also traces of this argument in the proem to the third book; see further Zetzel (2017b).

of Caesar (46–44 BCE), expectations for a return to traditional norms of senatorial politics would appear wishful thinking. However, following the assassination of Caesar, an opportunity arose for reasserting the authority of the Senate. After serious deliberation, such as what we can see in the correspondence with Atticus, although an old man, Cicero himself took up a leading active role in the Senate in opposition to Mark Antony – and in his senatorial speeches of 44 and 43, the *Philippics*, we see Cicero acting like the distinguished old senatorial statesman extolled in *De senectute*.[81]

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